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The Current Indian Statutes

CONTINING

Acts of the Indian, West Bengal, Bombay, Bihar and
Assam Legislatures with Commentary, Statutes concerning

India by the Imperial Parliament, Ordinances and

Important Notifications, Rules and Regulations

issued by the Indian, West Bengal and Bombay

Governments and Bombay and Calcutta

High Courts, etc.

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EDITOR

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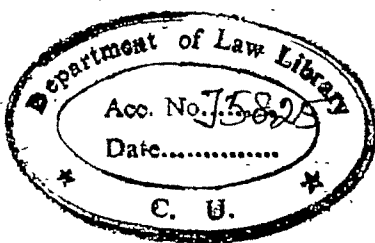


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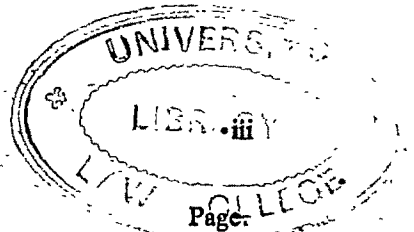
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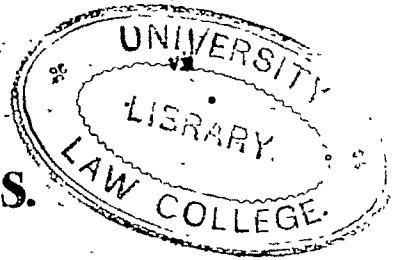
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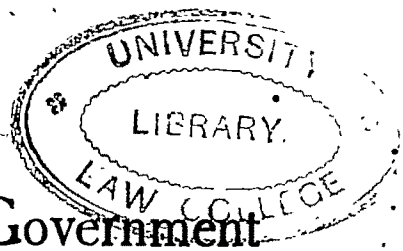
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PART II

Notifications-Central Government

Published in the *Gazette of India, Extraordinary*, dated 11th August 1947.
SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS).
New Delhi, the 11th August 1947.

No. G. G. O. 3.—The following Order made by the Governor-General is published for general information :—

The Federal Court Order, 1947.

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the Federal Court Order, 1947.
2. The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. In this Order,—

“appointed day” means the fifteenth day of August 1947 ;

“the Federal Court”, where used without qualification, means the Federal Court constituted under the Government of India Act, 1935, as in force immediately before the appointed day ;

“India” means the Dominion of India,

“Pakistan” means, the Dominion of Pakistan.

4. (1) The Federal Court shall, as from the appointed day, be the Federal Court of India, and shall accordingly be deemed to have been duly constituted as such in accordance with the provisions contained in that behalf in the Government of India Act, 1935, as it applies in relation to India on and after that day.

(2) Without prejudice to the general effect of the preceding paragraph, any person who is a judge of the Federal Court immediately before the appointed day shall, as from that day, be deemed to have been duly appointed a judge of the Federal Court of India under section two hundred, or, as the case may be, section two hundred and two, of the Government of India Act, 1935, as it applies in relation to India, and shall, on and after that day, be capable of acting in his office as a judge of the Federal Court of India without making a fresh oath or observing any other formality.

(3) Any rules of the Federal Court in force immediately before the appointed day shall remain in force as from that day as if duly made by the Federal Court of India, and may be varied or revoked accordingly.

5. (1) Any proceedings pending in the Federal Court immediately before the appointed day may be continued in the Federal Court of India on and after that day.

Provided that the Federal Court of India may, if it appears to them that any such proceedings as aforesaid ought to be transferred to the Federal Court of Pakistan, direct that the proceedings shall be so transferred ; and where any such direction is given the Federal Court of Pakistan shall have jurisdiction with respect to those proceedings to the exclusion of the Federal Court of India.

(2) Where any proceedings pending in the Federal Court immediately before the appointed day are continued in the Federal Court of India on or after that day, any order made in those proceedings by the Federal Court of India, or by His Majesty in Council on appeal therefrom, shall, in addition to being enforceable in India, be enforceable in Pakistan as if it were an order made by the Federal Court of Pakistan, or, as the case may be, an order made by His Majesty in Council on appeal from that court.

(3) For the purposes of this Order proceedings shall be deemed to be pending in the Federal Court until all issues between the parties (including any issues with respect to the taxation of the costs of the proceedings) have been finally disposed of.

6. (1) Subject to the provisions hereinafter contained with respect to appeals, any order made by the Federal Court before the appointed day shall be enforceable in India as if it were an order made by the Federal Court of India, and be enforceable in Pakistan as if it were an order made by the Federal Court of Pakistan.

(2) Where any such order as is mentioned in the preceding paragraph has, whether before or after the appointed day, been confirmed, varied or reversed on appeal, the decision of His Majesty in Council on the appeal shall be enforceable in India as if the decision appealed from were a decision of the Federal Court of India, and shall be enforceable in Pakistan as if the decision appealed from were a decision of the Federal Court of Pakistan.

MOUNTBATTEN OF BURMA,
Governor-General.

SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS)

New Delhi, the 11th August 1947.

No. G.G.O. 5—The following Order made by the Governor-General is published for general information:—

The High Courts (Punjab) Order, 1947.

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order:—

1. This Order may be cited as the High Courts (Punjab) Order, 1947.

2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) References herein to an order made by any court or judge shall be construed as including references to any sentence, judgment or decree passed or made by that court or judge.

3. As from the 15th day of August, 1947 (hereinafter referred to as "the appointed day"), there shall be a High Court of Judicature for the Province of East Punjab; and the said court is hereinafter referred to as the High Court of East Punjab.

4. (1) Between the coming into force of this Order and the appointed day, His Majesty may appoint a Chief Justice of the said court and may appoint such other judges of the said court as he thinks fit, and any appointments so made shall take effect as from the appointed day:

Provided that no person shall be qualified to be appointed a judge under this paragraph unless, under the law in force at the time of the making of this Order, he would have been qualified to be appointed a judge of the High Court at Lahore, and no person shall be qualified to be appointed Chief Justice under this paragraph unless, under the said law, he would have been qualified to be appointed Chief Justice of the High Court at Lahore.

(2) If any judge of the High Court at Lahore, having elected to be a judge of the High Court of East Punjab, is appointed to be a judge of that court in accordance with the preceding provisions of this Order, then, as from the appointed day, the judge so appointed shall cease to be a judge of the High Court at Lahore.

5. The High Court of East Punjab shall be a Court of record, and shall have, in respect of the territories for the time being included in the Province of East Punjab and in the Province of Delhi, all such original appellate and other jurisdiction as, under the law in force immediately

before the appointed day, is exercisable in respect of the said territories by the High Court at Lahore.

6. (1) The High Court of East Punjab shall have the like powers to approve, admit, enrol, remove and suspend advocates, vakils and attorneys, and to make rules with respect to advocates, vakils and attorneys, as are, under the law in force immediately before the appointed day, exercisable by the High Court at Lahore :

(2) The right of audience in the High Court of East Punjab shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court at Lahore :

Provided that, subject to any rule made or direction given by the High Court of East Punjab in the exercise of the powers conferred by this Article, any person who, immediately before the appointed day, is an advocate, vakil or attorney entitled to practise in the High Court at Lahore, shall be recognised as an advocate, vakil or attorney entitled to practise in the High Court of East Punjab.

7. Subject to the provisions of this Order, the law in force immediately before the appointed day with respect to practice and procedure in the High Court at Lahore shall, with the necessary modifications, apply in relation to the High Court of East Punjab, and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court at Lahore :

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court at Lahore shall, until varied or revoked by rules or orders made by the High Court of East Punjab, apply with any necessary modifications in relation to practice and procedure in the High Court of East Punjab as if made by that Court.

8. (1) The High Court of East Punjab shall have a Seal consisting of the Royal Arms with an exergue or label surrounding the same with the inscription "The Seal of the High Court of Judicature in East Punjab."

(2) The law in force, immediately before the appointed day with respect to the custody of the Seal of the High Court at Lahore shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of East Punjab.

9. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court at Lahore shall, with any necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of East Punjab.

10. The law in force immediately before the appointed day relating to the powers of the Chief Justice and of single judges and divisional courts of the High Court at Lahore, and with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modifications, apply in relation to the High Court of East Punjab.

11. The High Court of East Punjab and the judges and divisional courts thereof shall sit at such places in the Provinces of East Punjab and Delhi as the Chief Justice of the said court may, with the approval of the Governor of East Punjab, appoint.

12. Subject to any relevant provisions contained in Part IX of the Government of India Act, 1935, as it applies in India after the appointed day, the law in force immediately before the appointed day relating to appeals to His Majesty in Council from the High Court at Lahore and the judges and divisions thereof shall, with necessary modifications,

apply in relation to appeals to His Majesty in Council from the High Court of East Punjab and the judges and divisions thereof.

13. (1) Subject as hereinafter provided, the High Court at Lahore shall have no jurisdiction in respect of the territories for the time being included in the Province of East Punjab or in the Province of Delhi.

(2) Notwithstanding anything contained in this Order :—

(a) any proceedings which, immediately before the appointed day, are pending in the High Court at Lahore on its original side, including any proceedings then pending in the said High Court as a court of reference, shall be heard and determined by that court ;—

(b) the High Court at Lahore shall have the like jurisdiction to hear and determine any appeal from an order of a judge of the said court on its original side as if this Order had not been made, and the High Court of the East Punjab shall have jurisdiction to hear or determine any such appeal; and

(c) the High Court of Lahore shall have the like jurisdiction to review any order made by any judge of the said High Court as it would have had if this Order had not been made, and the High Court of East Punjab shall have no jurisdiction to review any such order.

(3) Subject to the preceding provisions of this Article, all proceedings pending on the appellate side of the High Court at Lahore immediately before the appointed day, shall, where the court of origin is, as from that day, situated in the Province of East Punjab or in the Province of Delhi, stand transferred by virtue of this Order to the High Court of East Punjab.

(4) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court at Lahore either—

(a) before the appointed day; or

(b) in any proceedings with respect to which the said High Court retains jurisdiction by virtue of paragraphs (2) and (3) of this Article; shall for all purposes have effect not only as an order of the High Court at Lahore but also as an order made by the High Court of East Punjab.

(5) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court of East Punjab in proceedings transferred to that High Court by virtue of this Article shall for all purposes have effect not only as an order of that Court but also as an order made by the High Court at Lahore.

(6) Where any such order as is mentioned in paragraphs (4) and (5) of this Article has, whether before or after the appointed day, been confirmed, varied or reversed on appeal, effect shall be given to the decision of the appellate court as if the order appealed from were an order not only of the High Court by which it was made, but also of the High Court at Lahore or the High Court of East Punjab, as the case may be.

(7) Any reference in this Article to a High Court shall be construed as including a reference to a judge or division thereof; and for the purposes of this Article proceedings shall be deemed to be pending in a particular court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings.

14. Nothing in this Order shall prejudice the application to the High Court of East Punjab of any relevant provisions of Part IX of the Government of India Act, 1935, as it applies in relation to India, and the provisions of this Order shall have effect subject to any provision made on or after the appointed day with respect to the High Court at Lahore or the High Court of East Punjab by any legislature or other authority having power to make such provision.

MOUNTBATTEN OF BURMA,
Governor-General.

SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS).

New Delhi, the 11th August, 1947.

No. G. G. O. 7.—The following Order made by the Governor-General is published for general information :—

The High Court (Lahore) Order, 1947.

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the High Court (Lahore) Order, 1947.
2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) In this Order :—

“the appointed day” means the 15th day of August 1947 ;

“the High Court at Lahore” means the High Court of Judicature at Lahore, established by Letters Patent, dated the 21st March, 1919.

3. The High Court at Lahore shall continue to exist on and after the appointed day, and shall, save as expressly provided by the High Courts (Punjab) Order, 1947, have all such original appellate and other jurisdiction as it had immediately before that day.

4. Without prejudice to the general effect of the preceding Article, any person holding office as a judge of the High Court at Lahore immediately before the appointed day (including the person holding office as Chief Justice of the said Court and any person holding office as a temporary or additional judge thereof) shall, subject to the provisions of the High Courts (Punjab) Order, 1947, continue, as from that day, to hold the like office on the same terms and conditions as were applicable in his case immediately before that day.

5. Subject to any general or special orders or arrangements affecting his case, any person who immediately before the appointed day is serving as a clerk or other officer of the High Court at Lahore shall, as from that day, remain in the service of the said Court on the like terms and conditions as were applicable to him immediately before that day :

Provided that the Chief Justice of the said Court may, on or after the appointed day, determine the appointment of any such person as aforesaid if he thinks it expedient so to do having regard to any changes effected by or under the Indian Independence Act, 1947.

6. Any rules or orders with respect to practice or procedure in force in the said High Court at Lahore immediately before the appointed day shall remain in force as from that day until altered or modified by a competent authority.

7. Nothing in this Order shall prejudice the application to the High Court at Lahore of any relevant provisions of Part IX of the Government of India Act, 1935, as it applies in relation to the Dominion of India ; and the provisions of this Order shall have effect subject to any provision made on or after the appointed day with respect to the High Court at Lahore by any legislature or other authority having power to make such provision.

MOUNTBATTEN OF BURMA,

Governor-General.

Published in the *Gazette of India, Extraordinary*, dated 5th October, 1947.

MINISTRY OF LAW (REFORMS)

New Delhi, the 6th October, 1947.

No. G. G. O. 27.—The following Order made by the Governor-General is published for general information :

The India Provisional Constitution (Second Amendment) Order, 1947.

WHEREAS in the exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, the Governor-General was pleased to make the India (Provisional Constitution) Order, 1947 (hereinafter referred to as "the principal Order") ;

AND WHEREAS sub-section (5) of section 19 of the said Act provides that any power conferred by that Act to make any order includes power to revoke or vary any order previously made in the exercise of that power ;

AND WHEREAS sub-section (3) of section 9 of the said Act provides that any order made under that section may be made so as to be retrospective to any date not earlier than the third day of June, 1947 ;

NOW, THEREFORE, in the exercise of the powers conferred on him as aforesaid and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. (1) This Order may be cited as the India Provisional Constitution (Second Amendment) Order, 1947.

(2) It shall be deemed to have effect from the fifteenth day of August, 1947.

2. The Schedule to the principal Order shall be amended by inserting in the list of adaptations pertaining to the Government of India Act, 1935,—

(a) before the entry relating to paragraph 20 of the Fifth Schedule to the said Act, the following entry :—

" To paragraph 19, add :—

' For the purposes of this paragraph, a person shall be deemed to be a native of India or Pakistan or an Indian State if, and only if, he is a person domiciled in India, Pakistan or an Indian State and born of parents habitually resident in the territories comprised therein and not established there for temporary purposes only. ' " : and

(b) after the entry relating to sections 312 to 320 of the said Act, the following entries :—

Section	Adaptations
19	In sub-section (2), for " Governor-General " substitute " President of the Dominion Legislature ".
22	To sub-section (4), add the following :— " Any reference in this Act to the President of the Dominion Legislature shall, except in sections 19 and 38, be construed as including a reference to any other person elected by the Constituent Assembly to preside over that Assembly when it functions as the Dominion Legislature under this Act."
49	In sub-section (1), for " Federal " substitute " Dominion Legislature ".
107	In the proviso to sub-section (2), omit " either Chamber of ".
137	In the proviso for " Federal purposes " substitute " Dominion purposes ".
141	In sub-section (1), omit " either Chamber of ".
150	In sub-section (2), for " Federal " substitute " Dominion Legislature ".
166	In sub-section (1), for " His Majesty " substitute " the Governor-General ".
176	In sub-section (1), for " Federal " substitute " Dominion Legislature ".
178	In sub-section (3), for " Federal " substitute " Dominion Legislature ".
220	In clause (c) of sub-section (3), omit " British ".

Section	Adaptations
225	For "Federal" substitute "Dominion".
226	In sub-section (2), for "in a Chamber of the Federal or a Provincial Legislature" substitute "in the Dominion Legislature or in a Chamber of a Provincial Legislature".
242	In sub-section (4), for "said section" substitute "last preceding section".
296	In sub-section (1) for "Federal or" substitute "Dominion Legislature or of".
299	In sub-section (2), for "Federal" substitute "Dominion Legislature".
304	Omit "by His Majesty".
311	In sub-section (2), in the definition of "estate duty", for "Federal" substitute "Dominion".

MOUNTBATTEN OF BURMA,
Governor-General.

Published in the *Gazette of India, Extraordinary*, dated 10th December, 1947.

MINISTRY OF LAW (REFORMS).

New Delhi, the 10th December, 1947.

No. G. G. O. 31.—The following Order made by the Governor-General is published for general information :—

The India (Adaptation of Income-Tax, Profits-Tax and Revenue Recovery Acts) Order, 1947.

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. (1) This Order may be cited as the India (Adaptation of Income Tax, Profits Tax and Revenue Recovery Acts) Order, 1947.

(2) It shall be deemed to have effect from the fifteenth day of August, 1947.

2. In their application to the Dominion of India and any part or parts thereof, the Central Acts specified in the Schedule to this Order shall, as from the fifteenth day of August, 1947, and until repealed or altered or amended by a competent Legislature, be subject to the adaptations specified in the said Schedule.

3. The provisions of this Order shall have effect notwithstanding anything to the contrary contained in the India (Adaptation of Existing Indian Laws) Order, 1947.

THE SCHEDULE.

(See Article 2)

1. THE INDIAN INCOME-TAX ACT, 1922 (XI OF 1922)

Section 1.—In sub-section (2), omit "British Baluchistan and" and "the Crown Representative or".

Section 2.—After clause (3), insert :—

"(3A) "British India" means, as respects any period before the 15th day of August, 1947, the territories then referred to as British India but including Berar, and as respects any period after the 14th day of August, 1947, the territories for the time being comprised in the Provinces of India ;".

Section 7.—In sub-section (2), omit "the Crown Representative or".

Section 23.—In sub-section (5), at the end of the second proviso to clause (a), for "and" substitute :—

"Provided also that if at the time of assessment of any partner of a

registered firm, the Income-tax Officer is of opinion that the partner is residing in Pakistan, the partner's share of the income, profits and gains of the firm shall be assessed of the firm in the manner laid down in the preceding proviso and the sum so determined as payable shall be paid by the firm; and ”:

To section 46, add :—

“(8) For the purposes of this section, the expression “Collector” shall include a Collector in Pakistan and the Income-tax Officer may forward a certificate under sub-section (2) to a Collector in Pakistan through the Central Board of Revenue of Pakistan, if the assessee has property in the district of that Collector.

(9) Where a Collector in British India receives through the Central Board of Revenue of India a certificate under the signature of an Income-tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer in British India, and shall remit any sum so recovered by him to the Income-tax Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings.

(10) The provisions of sub-sections (8) and (9) shall remain in force only so long as there are in force similar provisions in this Act as in force as part of the law of Pakistan or under any other similar Act forming part of the law of Pakistan, for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in British India.”

Section 49A.—In sub-section (1) after “Dominion income-tax” insert “in one or more countries” and in sub-section (2) for “other than the United Kingdom” substitute “including the United Kingdom”.

After section 49A, insert :—

“49AA. *Agreement for avoidance of double taxation in India and Pakistan.*—The Central Government may enter into an agreement with Pakistan for the avoidance of double taxation of income, profits and gains under this Act and under the corresponding law in force in Pakistan, and may, by notification in the official Gazette, make such provision as may be necessary for implementing the agreement.”

Section 54.—In sub-section (3), in clause (7), after “49” insert “or section 49AA”.

Section 66.—In sub-section (8), omit clause (a).

Section 66A.—In sub-section (1), omit the proviso.

II.—THE EXCESS PROFITS TAX ACT, 1940. (XV OF 1940)

Section 2.—After clause (4), insert :—

“(4A) “British India” means as respects any period before the 15th day of August, 1947, the territories then referred to as British India, and as respects any period after the 14th day of August, 1947, the territories for the time being comprised in the Provinces of India;”.

After section 11, insert :—

“11A. *Agreement for avoidance of double taxation in India and Pakistan.*—The Central Government may, enter into an agreement with Pakistan for the avoidance of double taxation of profits under this Act and under the corresponding law in force in Pakistan, and may, by notification in the official Gazette, make such provision as may be necessary for implementing the agreement.”

Section 12.—In sub-section (1), after “section 11” insert “or section 11A”.

After section 21, insert :—

“21A. *Application of Income-tax Act before 15th day of August, 1947, with certain modification.*—Any references in this Act to the Indian Income-tax Act, 1922, shall, in relation to the profits of any chargeable accounting

period and to the state of affairs and all the circumstances necessary to determine the charge to excess profits tax, mean the said Act as in force in the relevant period :

Provided that whatever be the relevant period, references to section 46 of the said Act shall be deemed to include references to sub-sections (8), (9) and (10) of that section."

III.—THE BUSINESS PROFITS TAX ACT, 1947 (XXI OF 1947)

Section 2.—After clause (2), *insert* :—

"(2A) 'British India' means, as respects any period before the 15th day of August, 1947, the territories then referred to as British India, and as respects any period after the 14th day of August, 1947, the territories for the time being comprised in the Provinces of India ;"

After section 18, *insert* :—

"18A. *Agreement for avoidance of double taxation in India and Pakistan.*—The Central Government may enter into an agreement with Pakistan for the avoidance of double taxation of profits under this Act and under the corresponding law in force in Pakistan, and may, by notification in the official Gazette, make such provision as may be necessary for implementing the agreement."

Section 19.—For "section 21" *substitute* "sections 21 and 21A".

IV.—THE REVENUE RECOVERY ACT, 1890 (I OF 1890)

Section 1.—For sub-section (2), *substitute* :—

"(2) It extends to all the Provinces of India."

Section 4.—In sub-section (4),—

before "Burma" where it occurs for the first and second times, *insert* "Pakistan or" ;

for "Burma" where it occurs for the third time, *substitute* "Pakistan or Burma, as the case may be," ;

or "British India" *substitute* "a Province of India".

Section 8.—*Omit* "or the Crown Representative".

For "British India" at both the places, *substitute* "the Provinces of India".

Section 9.—In sub-section (1), *omit* "British" wherever it occurs.

Add the following sub-section :—

"(3) Sub-sections (1) and (2) shall apply in relation to Pakistan as they apply in relation to Burma".

Section 10.—*After* "Collector in" *insert* "Pakistan or".

MOUNTBATTEN OF BURMA,
Governor-General.

MINISTRY OF FINANCE (REVENUE) DIVISION)

New Delhi, the 10th December 1947.

No. 28.—In exercise of the powers conferred by section 49AA of the Indian Income-tax Act, 1922 (XI of 1922), Sec. 11A of the Excess Profits Tax Act, 1940 (XV of 1940) and sec. 18A of the Business Profits Tax Act, 1947 (XXI of 1947), as adapted by the India (Adaptation of Income-Tax, Profits Tax and Revenue Recovery Acts) Order, 1947, the Central Government is pleased to direct that all provisions of the annexed Agreement for the avoidance of double taxation of income, profits and gains under the said Acts which has been concluded between India and Pakistan shall be given effect to in the Dominion of India.

Agreement for the avoidance of Double Taxation of income between the Government of the Dominion of India and the Government of the Dominion of Pakistan.

Whereas the Government of the Dominion of India and the Government of the Dominion of Pakistan desire to conclude an Agreement for the

avoidance of double taxation of income chargeable in the two Dominions in accordance with their respective laws :

Now, therefore, the said two Governments do hereby agree as follows :—

Article I.—The taxes which are the subject of the present Agreement are the taxes imposed in the Dominions of India and Pakistan by the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940, (XV of 1940), and the Business Profits Tax Act, 1947 (XXI of 1947) as adapted in the respective Dominions.

Article II.—Subject to the provisions of Article IX this Agreement shall continue in force so long as the basis of residence and the scope of the charging provisions in the aforesaid Acts as adapted remain unaltered in both the Dominions, and shall apply to the following assessments made under the said Acts in the two Dominions.

(i) Assessments made on or after the 15th day of August 1947 for the assessment year 1947-48 (or for the corresponding chargeable accounting period).

(ii) All other assessments made on or after the 1st day of April 1948, excepting excess profits tax assessments for chargeable accounting periods for which provisional assessments have been made before 1st April 1948.

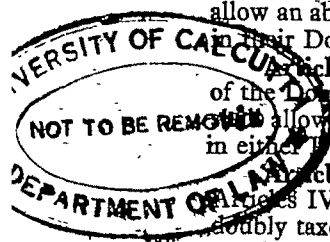
Article III.—Save under the provisions of Section 34 of Income-tax Act, 1922, and Section 15 of the Excess Profits Act, 1940 as adapted neither Dominion shall charge to tax any income of a person whose assessment (whether regular or provisional) including such income had been completed before the 15th day of August, 1947, or 1st day of April, 1948, as the case may be by an Income-tax Officer or Excess Profits Tax Officer functioning respectively under the Indian Income-tax Act, 1922, or the Excess Profits Act, 1940 or under those Acts as adapted and applied to any Areas or to either Dominion.

Article IV.—Each Dominion shall make assessment in the ordinary way under its own laws ; and, where either Dominion under the operation of its laws ; charges any income from the sources or categories of transactions specified in column 1 of the schedule to this Agreement (hereinafter referred to as the Schedule) in excess of the amount calculated according to the percentage specified in columns 2 and 3 thereof, that Dominion shall allow an abatement equal to the lower amount of tax payable on such excess in that Dominion as provided for in Article VI.

Article V.—Where any income accruing or arising without the territories of the Dominions is chargeable to tax in both the Dominions, each Dominion shall allow an abatement equal to one-half of the lower amount of tax payable in either Dominion on such doubly taxed income.

Article VI.—(a) For the purposes of the abatement to be allowed under Articles IV or V, the tax payable in each Dominion on the excess or the doubly taxed income, as the case may be, shall be such proportion of the tax payable in each Dominion as the excess or the doubly taxed income bears to the total income of the assessee in each Dominion.

(b) Where at the time of assessment in one Dominion, the tax payable on the total income in the other Dominion is not known, the first Dominion shall make a demand without allowing the abatement, but shall hold in abeyance for a period of one year (or such longer period as may be allowed by the Income-tax officer in his discretion) the collection of a portion of the demand equal to the estimated abatement. If the assessee produces a certificate of assessment in the other Dominion within the period of one year or any longer period allowed by the income-tax officer, the uncollected portion of the demand will be adjusted against the abatement allowable under this agreement; if no such certificate is produced, the abatement shall cease to be operative and the outstanding demand shall be collected forthwith.



Article VII—(a) Nothing in this Agreement shall be construed as modifying or interpreting in any manner the provisions of relevant Taxation laws in force in either Dominion.

(b) If any question arises as to whether any income falls within any one of the items specified in the schedule and if so under which item the question shall be decided without any reference to the treatment of such income in the assessment made by the other Dominion.

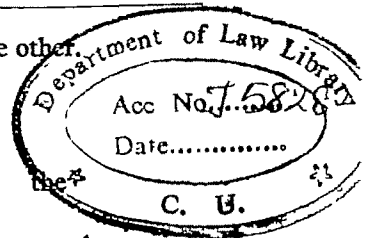
Article VIII—The Schedule to this Agreement may be modified from time to time by agreement between the Central Boards of Revenue of the two Dominions and references to the Schedule in the foregoing Articles shall be read as references to the Schedule, as modified.

Article IX—Either of the Contracting Parties may, six months before the beginning of any financial year (beginning on the 1st day of April) give to the other Contracting Party, through diplomatic channels, notice of termination, and in such event this Agreement shall cease to have effect in relation to any assessment to income-tax for the financial year beginning with the 1st day of April next following and in relation to assessments to any other tax on the income of the corresponding chargeable accounting period.

THE SCHEDULE

(See Article IV)

Source of income or nature of transaction from which income is derived.	Percentage of income which each Dominion is entitled to charge, under the Agreement.	Remarks.
1	2	3
1. (a) Salaries paid by employers other than Government.	100 per cent. by the Dominion in which the salary is earned by service.	Nil by the other.
(b) Salaries paid by Government.	100 per cent. by the Dominion which pays the salary.	Nil by the other.
2. (a) Interest on Government Securities.	100 per cent. by the Dominion where the securities are enfaced for payment of interest and principal.	Nil by the other.
(b) Interest on securities other than Government securities.	100 per cent. by the Dominion in which the investment is used.	Nil by the other.
3. Income from property.	100 per cent. by the Dominion in which the property is situated.	Nil by the other.
4. Income from profession or vocation.	100 per cent. by the Dominion in which professional service is rendered.	Nil by the other.



1.	2	3	4
5. Income from " Business " or " Other Sources ".			
(a) Rent or royalty from lease renting or hire of property.			
(b) Rent or royalty or license fees or any like consideration from rights conceded in respect of property.	100 per cent. by the Dominion in which the property is situated.	Nil by the other.	
(c) Rent or royalty or any like consideration from any interest in property.			
(d) Profits or gains from dealings in property growing out of the ownership or use of or interest in such property.	100 per cent. by the Dominion in which the property is situated.	Nil by the other.	
(e) Rent or royalty for the use of or for the privilege of using patents, copyrights, goodwill, trade marks and other like property.	100 per cent. by the Dominion in which the asset is used.	Nil by the other.	
(f) Income derived from any money lent at interest and brought into a Dominion in cash or in kind.	100 per cent. by the Dominion into which the money is brought.	Nil by the other.	
(g) Transport Ships Air Road.	100 per cent. by the Dominion in which the traffic originates.	Nil by the other.	
6. Capital gains :			
(a) From sale, exchange or transfer of an immovable capital asset and any rights pertaining thereto.	100 per cent. by the Dominion in which the capital asset is situated.	Nil by the other.	
(b) from the sale, exchange or transfer of other assets.	100 per cent. by the Dominion in which the sale, exchange or transfer take place.	Nil by the other.	

1	2	3	4
7. (a) Goods purchased in one Dominion and sold in the other in the same condition without any manufacturing process so as to change the identity of the goods.	100 per cent. of the profits by the Dominion in which goods are purchased provided there is a branch or regular purchasing agency in the Dominion.	90 per cent by the other.	If there is no regular purchasing agency, 100 per cent. shall be chargeable by the Dominion in which goods are sold and Nil by the other.
(b) Goods merchandise or commodities manufactured in one Dominion and delivered by the manufacturer to a buyer in the same Dominion.	100% by the Dominion in which the goods are manufactured.	Nil by the other.	
(c) Goods merchandise or commodities manufactured in one Dominion and sold by the manufacturer in the other without any further process and without having a selling establishment or regular agency in the latter Dominion.	75% by the Dominion in which goods are manufactured.	25% by the Dominion in which goods are sold.	
(d) Goods merchandise or commodities manufactured in one Dominion and sold by the manufacturer in the other through a selling establishment or a regular agency.	50% by the Dominion in which goods are manufactured.	50% by the Dominion in which goods are sold.	
(e) Goods merchandise or commodities manufactured by the assessee partly in one Dominion and partly in the other.	50% of the profits by each Dominion.	50% of the profits by each Dominion.	
(f) Metal ores, minerals, mineral oils and forest produce extracted in one Dominion and delivered by the extractor to a buyer in the same	100% by the Dominion in which the minerals are extracted.	Nil by the other.	

1	2	3	4
Dominion.			
7. (g) Metal ores, minerals, mineral oils and forest product extracted in one Dominion and sold in the other without any further manufacturing process and without selling establishment or a regular agency	75% of the profits by the Dominion in which minerals are extracted.	25% by the Dominion in which goods are sold.	
(h) As above but sold in the other Dominion through a branch or selling establishment or regular agency.	50% of the profits by the Dominion in which minerals are extracted.	50% of the profits by the Dominion in which goods are sold.	
8. Dividends	By each Dominion in proportion to the profits of the company chargeable by each Dominion under this Agreement.	(As in pre-Relief in respect of any excess income-tax deemed to be paid by the shareholder shall be allowed by each Dominion in proportion to the profit of the company chargeable by each under this agreement.	
9. Any income derived from a source or category of transactions not mentioned in any of the foregoing items of this Schedule.	100% by the Dominion in which the income actually accrues or arises.	Nil by the other.	

Published in the *Gazette of India*, Pt. I, dated the 1st November 1947.

MINISTRY OF HOME AFFAIRS.

New Delhi, the 22nd October 1947.

No. 15/59-47-Police.—In exercise of the powers conferred by sections 17 and 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Arms Rules, 1924, namely :—

1. To the definitions in sub-rule (1) of rule 2 of the said Rules the following definition shall be added, namely :—

“ ‘Regional Commissioner’ means the Regional Commissioner appointed by the Central Government for an Indian State and includes an officer duly authorised by him to exercise all or any of his powers under these rules ”.

2. In the said Rules and the Schedules annexed thereto, for the words “Political Officer”, wherever they occur, the words “Regional Commissioner” shall be substituted.

CENTRAL BOARD OF REVENUE.

New Delhi, the 1st November 1947.

No. 4.—In exercise of the powers conferred by section 24 of the **Business Profits Tax Act, 1947** (XXI of 1947), the Central Board of Revenue makes the following rules, namely:—

1. *Short title.*—These rules may be called the **Business Profits Tax Rules, 1947**.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(i) “the Act” means the **Business Profits Tax Act, 1947** (XXI of 1947);

(ii) “applied section” means a section of the **Indian Income-tax Act, 1922** (XI of 1922), as applied by section 19 of the Act, and rule 3;

(iii) In the applied sections, “the Act” means the **Business Profits Tax Act, 1947** (XXI of 1947);

(iv) “Form” means a form as set out in the Schedule to these rules.

3. These rules shall remain in force for so long as the Act remains in force.

4. *Adaptation of Indian Income-tax Rules, 1922.*—Rules 8, 23, 24, 33, 34, 44, 45 and 46 of the **Indian Income-tax Rules, 1922**, shall apply subject to the modification that all references therein to “income-tax” shall be construed as references to “**Business Profits Tax**.”

5. *Form of notice of Demand under applied section 29.*—The notice of demand or of determination of a deficiency of profits under applied section 29 shall be in Form B. P. 4.

6. *Form of notice in default of payment.*—The notice in default of payment of business profits tax shall be in Form B. P. 6.

7. *Forms for notice under section 13.*—Notice under sub-section (2) of section 13 of the Act shall be in form B. P. 3-1 and the Order of Assessment and the Notice of Demand in respect of provisional assessment made under sub-section (3) of the said section shall be in form B. P. 4-1.

8. *Form of Return under section 11 (1).*—The return required under sub-section (1) of section 11 of the Act shall be in Form B. P. 1.

9. *Forms of appeal under section 16.*—An appeal under section 16 of the Act shall be—

(a) in Form B. P. 8, if against the amount of an assessment made or of a deficiency of profits under sub-section (1) of section 12 of the Act;

(b) in Form B. P. 9, if against an order imposing a penalty under section 15 of the Act or under sub-section (1) of applied section 46;

(c) in Form B. P. 10, if in respect of an alleged insufficient relief or refund or a refusal to grant relief or refund by the Income-tax Officer under section 6 of the Act;

(d) in Form B. P. 11, if against an order under sub-section (5) of section 8 of the Act allocating between a principal company and its subsidiaries the business profits tax payable by the principal company.

10. *Form of application for refund under section 6.*—An application for refund of business profits tax under section 6 of the Act, in respect of a deficiency of profits shall be in Form B. P. 12.

11. *Form of appeal to the Appellate Tribunal.*—An appeal under section 17 of the Act or under sub-rule (2) of rule 5 of Schedule I to the Act shall be in Form B. P. 17 (1).

12. *Time-limit for appeals to appellate Tribunal.*—An appeal to the Appellate Tribunal,—

(a) under section 17 of the Act against an order of the Appellate Assistant Commissioner of Income-tax under section 15 or 16 of the Act; or

(b) against any disallowance made by the Income-tax Officer under rule 5 of Schedule I to the Act; or

(c) against an allocation of business profits tax under sub-section (5) of section 8 of the Act for the purposes of section 10 of the Act; shall be made at any time before the expiry of sixty days from the date of receipt of the order in question.

13. *Procedure on appeal to the Appellate Tribunal.*—The procedure to be followed on an appeal to the Appellate Tribunal under the Act, shall be the same, as nearly as may be, as that prescribed in respect of appeals to that Tribunal under the Indian Income-tax Act, 1922 (XI of 1922).

14. *Commissioner to be represented at hearing of appeal or application.*—(1) At the hearing of any appeal or application under the Act by the Appellate Tribunal or an Appellate Assistant Commissioner, the Commissioner shall have the right to be represented by the Income-tax officer or such other person as may be appointed by the Commissioner in that behalf.

(2) Notice of the date appointed for the hearing of any appeal or application under the Act shall also be given to the Income-tax Officer concerned.

SCHEDULE

Form of return under section 11 (1) (Rule 8)	...	Form B. P. 1.
Form of notice under section 13 (2) (Rule 7)	...	Form B. P. 3-1.
Form of notice of demand under applied Section 29 (Rule 5)	...	Form B. P. 4.
Form of notice under section 13 (3) (Rule 7)	...	Form B. P. 4-1.
Form of notice in default of payment (Rule 6)	...	Form B. P. 6.
Form of appeal under section 16 (Rule 9A)	...	Form B. P. 8.
(Rule 9B)	...	Form B. P. 9.
(Rule 9C)	...	Form B. P. 10.
(Rule 9D)	...	Form B. P. 11.
Form of application for refund under section 6. (Rule 10)	...	Form B. P. 12.
Form of appeal to Appellate Tribunal (Rule 11)	...	Form B. P. 17T.

Reference to be quoted in all communications.

FORM B. P. 1. BUSINESS PROFITS TAX

Notice to furnish return of profits and other particulars.

To

.....
.....

In pursuance of the provisions of section 11 (1) of the Business Profits Tax Act, 1947, you are hereby required to furnish within fifty days from the date of the service of this notice, in the form provided overleaf, a Return of the profits or the amount of deficiency, if any, available for relief under Section 6 arising from the business carried on by

carried on in the name of.....

during the chargeable accounting period commencing.....19
and ending.....19 , together with such other

particulars relating thereto as are specified therein. The return duly signed by you, and the other particulars required therein, should be delivered to me at the address given below.

Notes for your guidance are contained in the enclosure to this form. If you desire any further information, application should be made to this office.

If you desire to make an application :—

(a) being a foreign association to be declared to be a company, under Section 2(5): [See Notes for Guidance, Note 15(a)] ;

(b) In the case of any change in the persons carrying on a business under the proviso to Section 7. (See Notes for Guidance, Note 10);

You are requested to intimate your intention in writing to this office as early as possible.

In the case of a company which is the subsidiary of another company resident in British India for the whole of the chargeable accounting period only the declaration on page 4 need be completed.

Income-tax Officer.

Address.....

Dated the 194 .

Penalties.—Particulars are given on page 6 of this form.

[For Form of Return and Forms B.P. 3-1, B.P. 4, B.P. 4-1, B.P. 6, see *Gazette of India*, Part I—Sec. 1, pages 1440-1442. *Editor.*]

FORM B.P. 8

Form of appeal against assessment under section 12(1) of the Business Profits Tax Act, 1947.

To

THE APPELLATE ASSISTANT, COMMISSIONER OF INCOME-TAX,

The day of 194 .
The petition of of sheweth
as follows:—

1. Under section 12(1) of the Business Profits Tax Act,
*the profits liable to Business Profits Tax of your petitioner's
*deficiency of profits
business for the chargeable accounting period commencing
194 , and ending 194 , have been determined
to be Rs. has

2. The
*notice of demand
*intimation of the amount of deficiency of profits
*intimation of the order of refund

attached hereto, was served upon your petitioner on 194 .

3. Your petitioner
*complied with the term of the notice
*did not comply with
(s) under sub-section (1) and/or sub-section (2) of section 11 of the
Business Profits Tax Act.

4. *Your petitioner claims that during the said chargeable accounting
period *the profits liable to Business Profits Tax of your petitioner's business
*the deficiency of profits
amounted to Rs.

5. Your petitioner therefore prays that
*the business may be assessed accordingly
*the deficiency of profits may be determined accordingly.
*he may be granted a refund of Rs.

Signed. .

*Inappropriate items to be deleted.

GROUNDS OF APPEAL

Form of Verification

I, ..., the petitioner named in the above petition do, declare that what is stated therein is true to the best of my information and belief.

Signed.

FORM B.P. 9

Form of Appeal to the Appellate Assistant Commissioner against imposition of penalty under section 15 of the Business Profits Tax Act, 1947 or under section 46 (1) of the Indian Income-tax Act, 1922, as applied to Business Profits Tax by section 19 of the Business Profits Tax Act, 1947.

To

THE APPELLATE ASSISTANT COMMISSIONER OF INCOME-TAX,

The day of 194

The petition of of sheweth as follows :—

1. A penalty of Rs., for which the notice of demand attached herewith was received on 194, has been imposed on your petitioner under
*section 15 of the Business Profits Tax Act, 1947.

*section 46 (1) of the Indian Income-tax Act, 1922.

2. *Your petitioner had reasonable cause for not furnishing the return under sub-section (1) of section 11 or for not complying with the notice under sub-section (2) of section 11.

*Your petitioner did not conceal particulars of the profits arising from the business or deliberately furnish inaccurate particulars thereof.

*Your petitioner was unable to pay the tax within time for the reasons set forth below.

3. For the reasons given in the Grounds of Appeal your petitioner therefore prays that the order of the Income-tax Officer imposing the penalty may be set aside.

Signed.

GROUNDS OF APPEAL

Form of Verification.

I, ... the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Signed.

FORM B. P. 10

Form of appeal against the amount of relief or refund or against refusal to grant relief or refund under section 6 of the Business Profits Tax Act, 1947.

To,

THE APPELLATE ASSISTANT COMMISSIONER OF INCOME-TAX,

The day of 194

The petition of of sheweth as follows :—

"1. Your petitioner applied to the Income-tax Officer for relief under section 6 of the Business Profits Tax Act in respect of a deficiency of profits amounting to Rs. occurring in the chargeable accounting period commencing 19, and ending 19.

*Inappropriate items to be deleted.

2. The Income-tax Officer has by his order, dated the _____ of which a copy is attached ~~*rejected the claim for relief~~
~~*granted relief of only Rs.~~

Intimation of this order was received by your petitioner on _____

3. Your petitioner for the reasons stated in the Grounds of Appeal prays that the full relief due to the petitioner may be granted.

Signed.

GROUND OF APPEAL

Form of Verification.

I, _____, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Signed.

FORM B. P. 11.

Form of appeal under the proviso to sub-section 5 of section 8 of the Business Profits Tax Act, 1947, by a principal company against the allocation, for the purposes of section 10 of the Act, of the Business Profits Tax payable by it by virtue of section 8 of the Act.

To

THE APPELLATE ASSISTANT COMMISSIONER OF INCOME-TAX,

The petition of _____ The day of _____ 19 _____
 of _____ sheweth as follows :—

1. Your petitioner is the Principal Company of the group of inter-connected companies comprised of _____

2. By virtue of Section 8 of the Business Profits Tax Act, 1947, the business profits tax of the said group, for the chargeable accounting period commencing _____ 19 _____, and ending _____ 19 _____, amounting to Rs. _____ is payable by your petitioner.

3. The Income-tax Officer has, under sub-section (5) of section 8 of the Business Profits Tax Act, 1947, allocated the said business profits tax to the respective companies of the said group, for the purposes of section 10 as follows :—

4. Your petitioner for the reasons stated in the grounds of appeal prays that the allocation of the said business profits tax for the purposes of section 10 may be varied as claimed by your petitioner.

Signed.

GROUND OF APPEAL

Form of Verification.

I, _____, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Signed.

FORM B. P. 12.

Application for refund of Business Profits Tax in respect of deficiency of profits.

TO

THE INCOME-TAX OFFICER,

*Inappropriate items to be deleted.

I, _____ of _____ do hereby declare that for the chargeable accounting period commencing 19____ and ending 19____ the taxable profits arising from the business of _____ were determined at Rs. _____ and charged to tax amounting to Rs. _____. The Tax was paid on _____ 194_____.

I further declare that during the chargeable accounting period commencing 19____, and ending 19____, there was a deficiency of profits in the same business amounting to Rs. _____.

I therefore pray for a refund of Rs. _____. The Return prescribed under section 11 (1) of the Act showing the said deficiency of profits is attached hereto.

Dated the _____ 194_____ Signature _____
Form of Verification

I hereby declare that what is stated herein is true to the best of my information and belief.

Dated the _____ 194_____ Signature _____

FORM B. P. 17-T

IN THE (INCOME-TAX) APPELLATE TRIBUNAL, BOMBAY.

B. P. T. Appeal No. _____

of 19____

19____.

Vs.

Appellant

Respondent

The Province of assessment	...
Chargeable accounting period	...
Provision of the Business Profits Tax Act under which the Income-tax Officer passed the order and date of the order	...
Date of receipt of the above order by the assessee	...
Income-tax Officer passing the order	...
*Appellate Assistant Commissioner determining the appeal	...
*Date on which the Appellate Assistant Commissioner passed the appellate order	...
*Date on which the above order was communicated to the Appellant	...
Address to which notices may be sent to the Appellant	...
Address to which notices may be sent to the respondent	...
Relief claimed in appeal	...

• GROUNDS OF APPEAL

- 1.
- 2.
- 3.
- 4.
- etc.

Signed.
(Appellant)

Signed.
(Authorised representative, if any)

Verification.

I, _____, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified to-day the _____ day of _____ 19____
Signed, (_____)

*No entries are necessary under these three heads in the case of appeal against a disallowance made under Rule 5 of Schedule 1 to the Business Profits Tax Act, 1947.

N. B.—1. The memorandum of appeal must be in triplicate and should be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against and two copies of the order of the Income-tax Officer; if the appeal is not against his order.

2. The memorandum of appeal should be written in English and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such ground should be numbered consecutively.

3. Strike out unnecessary columns.

Published in the *Gazette of India*, Extraordinary, dated 30th December 1947.

MINISTRY OF HOME AFFAIRS

New Delhi, the 29th December 1947.

No. 72/7/47-Public (A).—In exercise of the powers conferred by section 7 of the **Delhi Laws Act, 1912** (XIII of 1912), and in supersession of the Ministry of Home Affairs Notification No. 72/4/47-Public(A), dated the 21st September, 1947, the Central Government is pleased to extend to the Province of Delhi the East Punjab Evacuees (Administration of Property) Act, 1947 (No. XIV of 1947), subject to the following modifications, namely :—

In the said Act—

(1) for the words "Provincial Government" wherever they occur, the words "Central Government" shall be substituted ;

(2) for the words "East Punjab" wherever they occur, the word "Delhi" shall be substituted.

Published in the *Gazette of India*, Extraordinary, dated 31st December 1947.

MINISTRY OF WORKS, MINES & POWER

New Delhi, the 31st December 1947.

No. 4407-WIV/47.—In exercise of the powers conferred by sub-section (2) of Section 1 of the **Delhi Premises (Requisition and Eviction) Act, 1947**, (XLIX of 1947), the Central Government is pleased to extend the said Act to all the areas in the Municipality of Delhi other than Karolbagh area.

No. 4408-WIV/47.—In pursuance of clause (b) of section 2 of the **Delhi Premises (Requisition and Eviction) Act, 1947** (XLIX of 1947), the Central Government is pleased to authorise the Collector of Delhi, to perform all the functions of a competent authority under the said Act.

No. 4409-WIV/47.—In exercise of the powers conferred by section 12 of the **Delhi Premises (Requisition and Eviction) Act, 1947** (XLIX of 1947), the Central Government is pleased to make the following rules :—

1. These rules may be called the Delhi Premises (Requisition and Eviction) Rules, 1947.

2. In these Rules—

(a) "Act" means the Delhi Premises (Requisition and Eviction) Act, 1947 ;

(b) "section" and "sub-section" mean respectively a section or sub-section of the Act ;

(c) "public purpose" shall include a purpose connected with—

(i) the proper and efficient functioning of the Government of India ;

(ii) maintenance of public safety,

(iii) maintenance of public order,

(iv) maintenance of supplies and services essential to the life of the community.

(v) the functioning of any social institution, such as school, orphanage or hospital,

(vi) the defence of India ;

(vii) the accommodation of representatives of Foreign Governments, and

(viii) provision for suitable alternative accommodation for a landlord or tenant under the proviso to sub-section (4) of section 3 of the Act.

3. The competent authority, or any other person either generally or specially authorised by such authority in this behalf, may after two days' notice in writing served in the manner herein prescribed enter upon and inspect any premises under sub-section (1) of section 3 of the Act, but for the purpose of inspection no such premises shall be entered upon after sunset and before sunrise.

4. If within ten days of the receipt of the notice under section 6 or section 11, the tenant or occupier of any premises does not, in compliance with such notice, vacate the premises, the competent authority or any person authorised by him in this behalf may with such assistance as is necessary, remove him from the premises, and in so doing may use, or authorise to be used, such force as may be necessary for the purpose :

Provided that where an appeal has been preferred under section 5 or sub-section (2) of section 11, the proceedings for taking possession shall be stayed on the direction of the Chief Commissioner, for a period not exceeding seven days.

5. A District Judge to whom an appeal shall lie against an award of an arbitrator shall not be appointed as arbitrator under clause (b) of sub-section (1) of section 7.

6. The costs of the arbitration and award shall be in the discretion of the arbitrator who may direct to, and by whom and in what manner, they or any part thereof shall be paid, and in case an appeal is preferred to the District Judge, such costs and the costs of the appeal shall be in the discretion of the District Judge, who may direct to, and by whom, and in what manner, they or any part thereof shall be paid.

7. The time for execution of repairs to be specified in the notice under section 8 shall be such as the competent authority may deem reasonable having regard to the nature of the repairs and the circumstances in which they are called for.

8. Every notice or order required to be served upon a landlord, tenant, or occupier, or person in possession of any premises shall, save as otherwise expressly provided in the Act, be served by sending it by post addressed to such landlord, tenant, occupier or person in possession of the premises by the name or by the description of the "landlord", "tenant", "occupier", or "person in possession" of the premises (naming the premises) or by delivering it or a true copy thereof to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

Published in the *Gazette of India, Extraordinary*, dated 2nd January 1948.

MINISTRY OF HOME AFFAIRS

New Delhi, the 31st December 1947.

No. 72/5/47-Public (A)-I.—In exercise of the powers conferred by section 2 of the **Ajmer-Merwara (Extension of Laws) Act, 1947** (No. LVIII of 1947), the Central Government is pleased to extend the East Punjab Evacuees (Administration of Property) Act, 1947 (No. XIV of 1947), to the province of Ajmer-Merwara, with the following modifications, namely :—

(1) for the words "Provincial Government" wherever they occur the words "Central Government" shall be substituted ; and

(2) except in section 2, for the words "East Punjab" wherever they occur the words "Ajmer-Merwara" shall be substituted.

(3) in section 20 for the word "Collector" the word "Deputy Commissioner" shall be substituted.

No. 72/5-47-Public (A)-II.—In exercise of the powers conferred by section 2 of the **Ajmer-Merwara (Extension of Laws) Act, 1947** (No. LVIII of 1947), the Central Government is pleased to extend the Delhi Refugees Registration Ordinance, 1947 (No. XXIV of 1947), to the province of Ajmer-Merwara, subject to the modification that for the word "Delhi" wherever it occurs the words "Ajmer-Merwara" shall be substituted.

No. 72/9-47-Public (A)-I.—In exercise of the powers conferred by section 2 of the **Ajmer-Merwara (Extension of Laws) Act, 1947** (No. LVIII of 1947), the Central Government is pleased to direct that the Punjab Disturbed Areas Act, 1947 (Punjab Act I of 1947) and the Punjab Public Safety Act, 1947 (Punjab Act II of 1947) shall apply to the Province of Ajmer-Merwara subject to the following modifications, namely—

(a) all powers of the Provincial Government under those Acts shall be powers of the Central Government as well as of the Chief Commissioner of Ajmer-Merwara; and

(b) for the word 'Punjab' wherever it occurs in those Acts the words 'Ajmer-Merwara' shall be substituted.

No. 72-9-47-Public (A)-II.—In exercise of the powers conferred by section 3 of the **Punjab Disturbed Areas Act, 1947** (Punjab Act I of 1947), as applied to the Province of Ajmer-Merwara, the Central Government is pleased to declare that the whole of the Province of Ajmer-Merwara is a disturbed area.

No. 72-9-47-Public (A)-III.—In exercise of the powers conferred by section 2 of the **Punjab Public Safety Act, 1947** (Punjab Act II of 1947), as applied to the Province of Ajmer-Merwara the Central Government is pleased to declare the whole of the province of Ajmer-Merwara to be a dangerously disturbed area.

No. 72-9-47-Public (A)-IV.—In exercise of the powers conferred by section 2 of the **Ajmer-Merwara (Extension of Laws) Act, 1947** (No. LVIII of 1947), the Central Government is pleased to extend to the Province of Ajmer-Merwara the East Punjab Police (Protection of Railways) Act, 1947 (No. XII of 1947), subject to the modification that in sub-section (2) of section I of the said Act, for the words "Province of East Punjab" the words "Province of Ajmer-Merwara" shall be substituted.

Published in the *Gazette of India*, Part I, dated the 3rd January 1948.
CENTRAL BOARD OF REVENUE.

New Delhi, the 27th December 1947.

No. 30.—In exercise of the powers conferred by sub-section (1) of section 59 of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Indian Income-tax Rules 1922, the same having been previously published as required by sub-section (4) of the said section, namely:—

In rule 20A of the said Rules, under the heading 'Order under section 18A (1) of the Income-tax Act, 1922' for the entry 'Total income determined in the latest completed assessment being that for the year 194-194,' the following entry shall be substituted, namely:—

'Total income determined in the latest completed assessment being that for the year 194—194 as reduced by the amount of capital gains included therein, if any.'

Published in the *Gazette of India*, Part I, dated the 10th January 1948.

MINISTRY OF HOME AFFAIRS

New Delhi, the 5th January 1948.

No. 79-8-47-Public (B).—In exercise of the powers conferred by the last item of the First Schedule to the **Indian Extradition Act, 1903** (XV of 1903), the Governor General is pleased to specify that the following offences shall be extradition offences for all States within the meaning of the said Act, namely:—

Counterfeiting currency-notes or bank-notes. (Section 489A).

Using as genuine, forged or counterfeit currency-notes or bank-notes. (Section 489B).

Possession of forged or counterfeit currency-notes or bank-notes. (Section 489C).

Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes. (Section 489D).

Making or using documents resembling currency-notes or bank-notes. (Section 489E).

Note.—The Section referred to against each offence is the section of the Indian Penal Code.

Published in the *Gazette of India*, Part I, dated 17th January 1948.

CENTRAL BOARD OF REVENUE

New Delhi, the 17th January 1948.

No. 6.—In exercise of the powers conferred by sub-section (1) of section 24 of the **Business Profits Tax Act (XXI of 1947)**, the Central Board of Revenue directs that the following amendments shall be made in the Business Profits Tax Rules, 1947, the same having been previously published as required by sub-section (3) of the said section, namely:—

In the said rules—

(i) In clause (ii) of rule 2 for the word and figure “rule 3” the word and figure “rule 4A” shall be substituted and

(ii) after Rule 4 the following rule shall be inserted, namely—

4A. *Adaptation of Indian Income-Tax Act, 1922.*—The provisions of section 4A, 4B, 10, 13, 24B, 29, 36 to 44C, 45 to 48, 49E, 49F, 50, 54, 61 to 63 and 65 to 67A of the Indian Income-tax Act, 1922 (XI of 1922), shall apply with the following modifications, namely:—

(i) *General modifications.*—All references to “this Act,” except those in the proviso to clause (iii) of sub-section (2), clause (b) of sub-section (5) and the first proviso thereto of section 10; the first proviso to sub-section (1) of section 42, section 44A, and in sub-section (1) of section 54 where they last occur, shall be construed as references to “the Act”.

(ii) *Modifications of section 10.*—In section 10—

(a) clauses (b) and (c) of the proviso to clause (vi) and clause (f) of the second proviso to clause (xiv) of sub-section (2) shall be omitted.

(b) for sub-section (7) the following sub-section shall be substituted, namely:—

“(7) Notwithstanding anything to the contrary in this section or in the Act, the profits of any business of insurance, other than life insurance, shall be computed in accordance with the rules contained in the Schedule to the Indian Income-tax Act, 1922, in so far as they are applicable to such business”.

(iii) *Modification of section 13.*—In section 13, the word and figures “and 12” shall be omitted.

(iv) *Modification of section 24B.*—In section 24B—

(a) in sub-section (2)—

(i) the words, brackets and figures “before the publication of the notice referred to in sub-section (1) of section 22 or” shall be omitted.

(2) for the words, brackets and figures "sub-section (2) of section 22 or section 34" and "sub-section (2) of section 22 or under section 34", the words, brackets and figures "sub-section (1) of section 11 or section 14 of the Act" shall be substituted; and

(3) for the words "total income" the words "taxable profits" shall be substituted;

(b) in sub-section (3)—

(1) for the word and figures "section 22" the words, brackets and figures "sub-section (1) of sections 11 of the Act", shall be substituted; and

(2) for the words and figures "sections 22 and 23" the words, brackets and figures "sub-section (2) of section 11 of the Act," shall be substituted; and

(3) for the words "total income" the words "taxable profits" shall be substituted.

(v) *Modification of section 29.*—In section 29, for the words "tax, penalty, or interest", wherever they occur, the words "tax or penalty" shall be substituted.

(vi) *Modification of section 37.*—In section 37, for the words "this Chapter", wherever they occur, the words, figures and brackets "sections 7 to 18 (inclusive) of the Act", shall be substituted.

(vi) *Modification of section 40.*—For section 40 the following section shall be substituted, namely :—

"40. In the case of any agent of any person residing out of British India, being entitled to receive on behalf of such person any profits chargeable under the Act, the tax shall be levied upon and recoverable from such agent in like manner and to the same amount as it would be leviable upon and recoverable from such person if resident in British India and in direct receipt of such profits, and all the provisions of the said Act shall apply accordingly :

Provided that the tax may be levied upon and recovered from such non-resident person direct".

(viii) *Modification of section 41.*—The provisos to sub-section (1) of section 41 shall be omitted;

(ix) *Modification of section 42.*—In section 42—

(a) in sub-section (1) for the word "income-tax" wherever it occurs, the words "Business Profits Tax" shall be substituted;

(b) in the first proviso to that sub-section, the words and figures "the income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that" shall be omitted;

(c) in sub-section (2), for the word "income-tax" wherever it occurs, [except in the phrase "Income-tax Officer"] the words "business profits tax" shall be substituted;

(x) *Modification of section 43.*—The explanation to section 43 shall be omitted.

(xi) *Modification of section 44.*—For section 44 the following section shall be substituted, namely :—

"44. Where any business carried on by a firm or association of persons has been discontinued, every person who was at the time of such discontinuance a partner of such firm or a member of such association shall, in respect of the profits of the firm or association, be jointly and severally liable to assessment under section 12 of the Act, and for the amount of tax payable; and all the provisions of the said Act shall, so far as may be, apply to any such assessment."

(xii) *Modification of section 44A.*—In section 44A, for the words "this Chapter" the words, figures and letters "the applied sections 44B and 44C" shall be substituted.

(xiii) *Modification of section 44B.*—In section 44B—

(a) in sub-section (1), for the words "this Chapter" the words, figures and letter "the applied section 44A" shall be substituted ;

(b) in sub-section (3) the words "at the rate for the time being applicable to the total income of a company" shall be omitted.

(xiv) *Modification of section 44C.*—In section 44C.—

(a) for the words "this Chapter," wherever they occur, the words, figures and letters "the applied sections 44A and 44B" shall be substituted;

(b) for the words "of his total income in the previous year" the words "of his actual taxable profits in the chargeable accounting period" shall be substituted;

(c) the word "other" shall be omitted.

(xv) *Modification of section 45.*—In section 45,—

(a) the words, brackets, figures and letter "under sub-section (3) of section 23A or" shall be omitted;

(b) for the words and figures "section 31 or section 33" the words, brackets and figures "sub-section (4) of section 16, or section 17 or section 18 of the Act" shall be substituted;

(c) for the words and figures "under section 30", the words and figures "under section 16 of the Act" shall be substituted ;

(d) in the proviso, for the words "which is due in respect of that amount of his income which", the words "which relates to taxable profits arising from such income as" shall be substituted.

(xvi) *Modification of section 46.*—In section 46—

(a) sub-section (5) shall be omitted ;

(b) in sub-sections (1) and (6), for the word "income-tax" wherever it occurs, the words "Business Profits Tax" shall be substituted.

(xvii) *Modification of section 47.*—In section 47—

(a) the words, brackets, figures and letters "sub-section (2) of section 25, section 28, sub-section (6) of section 44E, sub-section (5) of section 44F or" shall be omitted ;

(b) after the figures 46, the words and figures "or under the provisions of section 15 of the Act," shall be inserted ;

(c) for the words "this Chapter" the words and figures "the applied sections 45 and 46" shall be substituted ;

(d) the words, brackets, figures and letter "and any interest payable under the provisions of sub-section (4), (6), or (8) of section 18A" shall be omitted.

(xviii) *Modification of section 48.*—In section 48—

(a) for sub-section (1), the following sub-section shall be substituted namely :—

"(1) If any person, to whose business the Act applies, satisfies the Income-tax Officer that the amount of tax paid by him for any chargeable accounting period exceeds the amount with which he is properly chargeable under the said Act for that period, he shall be entitled to a refund of any such excess";

(b) sub-section (3) shall be omitted ;

(c) in sub-section (4), the words, brackets and figures "or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), which he would not be entitled to claim but for the passing of that Act" shall be omitted.

(xix) *Modification of section 49F.*—In section 49F, for the word and figures "or 49", the following shall be substituted, namely :—

"or under section 6 of the Act."

(xx) *Modification of section 50.*—For section 50, the following section shall be substituted, namely :—

"50. No claim to any refund of tax under the Act shall be allowed

unless it is made within four years from the last day of the financial year commencing next after the expiry of the accounting period which constitutes or includes the chargeable accounting period in respect of which the claim to such refund arises”.

(xxi) *Modification of section 54.*—In section 54,—

(a) in sub-section (1), for the words “this Chapter” the words and figures “sections 21, 22 and 23 of the Act” shall be substituted;

(b) in sub-section (3), clauses (e), (i) and (m) shall be omitted; and in clauses (f) and (gg) for the word “income-tax” the words “Business Profits Tax” shall be substituted;

(c) sub-section (4) shall be omitted.

(xxii) *Modification of section 61.*—In sub-section (3) of section 61, for the words “income-tax proceedings” the words “Business Profits Tax proceedings” shall be substituted.

(xxiii) *Modification of section 66.*—In section 66—

(a) in sub-section (1), for the words, brackets and figures “sub-section (4) of section 33” the words, figures and brackets “section 17 of, or sub-rule (2) of Rule 5 of Schedule I to, the Act read with sub-section (4) of section 33 of the Indian Income-tax Act, 1922” shall be substituted;

(b) in sub-section (7), for the word “income-tax” the words “Business Profits Tax” shall be substituted.

MINISTRY OF INDUSTRY AND SUPPLY

New Delhi, the 17th January 1948.

No. 89/18-Tex. I/47.—In exercise of the powers conferred by section 3 of the **Essential Supplies (Temporary Powers) Act, 1946** (XXIV of 1946), the Central Government is pleased to direct that the Woollen Goods (Control) Order, 1947, shall be cancelled.

MINISTRY OF LABOUR.

New Delhi, the 10th January 1948.

No. Fac. 38 (1) A.—In pursuance of sub-section (3) of section 1 of the **Indian Dock Labourers Act, 1934** (XIX of 1934), the Governor General is pleased to appoint the 10th February 1948 as the date on which the said Act shall come into force.

No. Fac. 38 (1) B.—In exercise of the powers conferred by section 5 of the **Indian Dock Labourers Act, 1934** (XIX of 1934), the Governor General is pleased to make the following Regulations, the same having been previously published as required by section 7 of the said Act, namely :—

INDIAN DOCK LABOURERS REGULATIONS, 1948

PART I

1. *Title and application.*—(1) These Regulations may be called the Indian Dock Labourers Regulations, 1947.

(2) They shall apply only within the limits of major port as defined by or under the Indian Ports Act, 1948.

[For remaining portion of the Regulations see *Gazette of India*, 1948, Part I-Sec. 1, pages 88-99. *Editor.*]

Published in the *Gazette of India*, Part I, dated the 31st January 1948.

MINISTRY OF HOME AFFAIRS

New Delhi, the 28th January 1948.

No. 8-1-48-Judl.—In exercise of the powers conferred by section 7 of **Delhi Laws Act, 1912** (XIII of 1912), the Central Government is pleased to extend the East Punjab Evacuees' (Administration of Property) (Amendment) Ordinance, 1948 (East Punjab Ordinance No. II of 1948), to the Province of Delhi subject to the modification that for the words “East Punjab” wherever they occur, the word “Delhi” shall be substituted.

No. 8-2-48-Judl.—In exercise of the powers conferred by section 2 of the **Ajmer-Merwara (Extension of Laws) Act, 1947** (LII of 1947) the Central Government is pleased to extend the East Punjab Evacuees' (Administration of Property) (Amendment) Ordinance, 1948, (East Punjab Ordinance No. II of 1948), to the Province of Ajmer-Merwara, subject to the modification that for the words "East Punjab", wherever they occur, the words "Ajmer-Merwara" shall be substituted.

Published in the *Gazette of India*, Part I, dated the 28th February 1948.

MINISTRY OF HOME AFFAIRS

New Delhi, the 25th February 1948.

No. 9-19-48-Police.—In exercise of the powers conferred by sections 17 and 27 of the Indian Arms Act, 1878 (XI of 1878), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Arms Rules, 1924, namely :—

In the Table set forth in Schedule VII to the said rules after item 10 following item shall be inserted, namely :—

(i)	(ii)
Such residents of the Gurdaspur, Amritsar and Ferozepur Districts of the East Punjab as are supplied with rifles by Government under the village defence scheme.	Such arms and ammunition as are supplied by Government.

FEDERAL COURT OF INDIA

New Delhi, the 25th February, 1948.

No. F.3/48-F. C. J.—The following is published for general information :—

AMENDMENTS TO FEDERAL COURT RULES, 1942.

The Federal Court, in pursuance of the powers conferred on it by s. 214 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, and of all other powers enabling it in that behalf, with the approval of the Governor-General, hereby makes the following amendments to the Federal Court Rules, 1942—

These amendments shall be deemed to have come into force from the first day of February 1948.

I. In Part I, after Order X, add the following as a new Order—"Order X-A":—

"ORDER X-A.

Special Division for Constitutional Cases.

The Registrar shall prepare a separate list of such cases as would have been within the jurisdiction of the Court even if its jurisdiction had not been enlarged by the Federal Court (Enlargement of Jurisdiction) Act, 1947 (Act No. I of 1948). Every case in such list shall be heard by a Special Division of not less than three judges which may be formed by the Chief Justice of India from time to time".

II. (i) For "Part II" substitute "Part II-A" and for the heading "Appellate Jurisdiction" substitute "Appellate Jurisdiction under s. 205 of Government of India Act, 1935"; and

(ii) in Order XI of Part II-A add the following as rule 1 and renumber the existing rules as rules 2 to 12 :—

"1. The rules contained in this Order and the next succeeding seven Orders shall, unless expressly stated otherwise in Part II-B, apply only to appeals brought to the Court under s. 205 of the Government of India Act, 1935".

III. After Order XVIII of Part II-A as renumbered and before Part III insert the following as Part II-B :—

“PART II-B
ORDER XVIII

Civil Appeals under the Federal Court (Enlargement of Jurisdiction) Act, 1947 (Act No. 1 of 1948).

1. The following rules shall apply to appeals brought to the Federal Court under the provisions of the Federal Court (Enlargement of Jurisdiction) Act 1947 (Act. No. I of 1948).

Leave to Appeal.

2. All appeals to the Federal Court shall be brought either in pursuance of leave obtained from the Court appealed from, or, in the absence of such leave, in pursuance of special leave to appeal granted by the Federal Court upon a petition in that behalf presented by the intending Appellant.

Special Leave to Appeal.

3. A petition for special leave to appeal to the Federal Court shall state succinctly and clearly all such facts as it may be necessary to state in order to enable the Court to determine whether such leave ought to be granted, and shall be signed by the Junior Counsel who attends at the hearing or by the party himself if he appears in person. The Petition shall deal with the merits of the case only so far as is necessary for the purpose of explaining and supporting the particular grounds upon which special leave to appeal is sought.

4. A Petition for special leave to appeal may be lodged at any time after the date of the judgment sought to be appealed from, but the petitioner shall, in every case, lodge his Petition with the least possible delay.

5. The Petitioner shall lodge not less than six copies of his petition for special leave to appeal together with the Affidavit in support thereof prescribed by Rule 40 hereinafter contained, and unless a Caveat as prescribed by Rule 38 has been lodged by the other parties who appeared in the Court below, an Affidavit of service of notice of the intended application upon such parties or their agents or the Advocates who represented them in the High Court.

6. Where the Federal Court grants special leave to appeal it shall in its Order specify the amount of the security for costs (if any) to be lodged by the Petitioner, and the time within which such security is to be lodged, and shall unless the circumstances of a particular case render such a course unnecessary, provide for the transmission of the Record by the Registrar of the High Court concerned to the Registrar of this Court and for such further matters as the justice of the case may require. Unless the Court specially directs otherwise, any security for costs to be furnished by the Petitioner shall be lodged in the High Court from whose judgment special leave to appeal has been granted, and the High Court shall deal with such security in accordance with the directions contained in the Order of the Federal Court when determining the appeal.

7. Where security is required to be furnished in this Court, it shall be given to the Registrar or to such other officer as the Court may specially direct, and the Court may permit or order him to assign the same to any other person for the purpose of enforcing it upon such terms as the Court may think fit.

8. Every person, other than a Guarantee Society, offering himself as a surety shall produce such evidence as the Registrar may require for the purpose of proving that he is worth the amount required.

9. A Guarantee Society, duly approved by the Court, may be accepted as surety upon its joining in a bond with the person ordered to give the security.

10. Where the appellant has lodged security for the Respondent's costs of an Appeal in the Registry of the Court, the Registrar of the

Court shall deal with such security in accordance with the directions contained in the Court's Order determining the Appeal.

11. Save as otherwise provided by the eight last preceding Rules, the provisions of Rules 37 to 47 (both inclusive) hereinafter contained shall apply *mutatis mutandis* to Petitions for special leave to appeal.

Special leave to appeal in forma pauperis.

12. The provisions contained in Order XVI of Part II-A shall apply in the case of any person seeking to appeal to the Federal Court as a pauper.

Preparation of Record etc.

13. As soon as the Appeal has been admitted, whether by an Order of the Court appealed from or by an Order of this Court granting special leave to appeal, the Appellant shall, without delay, take all necessary steps to have the Record transmitted to the Registrar of this Court, and the Registrar of the Court appealed from shall, with all convenient speed, certify to the Registrar of this Court that the Respondent has received notice, or is otherwise aware, of the Order of the Court appealed from admitting the Appeal, or of the Order of this Court giving the Appellant special leave to Appeal.

14. Where an appellant, who has obtained special leave to appeal by an Order of this Court, fails to have the Record transmitted to the Registrar of this Court with due diligence, the Registrar of this Court shall call upon the Appellant to explain his default, and if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar may issue a Summons to the Appellant calling upon him to show cause before this Court at a time to be specified in the said summons why the Special leave to appeal granted should not be rescinded. The Respondent shall be entitled to be heard before this Court in the matter of the said Summons and to ask for his costs and such other relief as he may be advised. The Court may, after considering the matter of the said Summons, rescind the grant of Special leave to appeal, or give such other directions therein as the justice of the case may require.

15. Whenever the decision of the Appeal is likely to turn exclusively on a question of law, the Appellant may, with the sanction of the High Court, print such parts only of the Record as may be necessary for the discussion of the same.

16. The Registrar of the High Court, as well as the parties and their agents, shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the Appeal, and generally to reduce the bulk of the Record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be printed shall be enumerated in a type-written list to be transmitted with the Record.

17. Where in the course of the preparation of a Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the Record as finally printed shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

18. The Record shall be printed under the supervision of the Registrar of the High Court according to the practice hitherto obtaining in the High Court in relation to the preparation of the Record in appeals to His Majesty in Council. When the Record has been made ready, the Registrar of the High Court shall—

(i) at the expense of the Appellant transmit to the Registrar of this Court such number of copies as the Federal Court may direct, or, in the absence of any special direction, 25 copies of such record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal of the Court appealed from:

(ii) give notice of the dispatch of the Record to the parties; and

(iii) send to the Registrar of this Court a certificate as to the date or dates on which the notice under the preceding sub-clause (ii) has been served

19. When the Record arrives in the Registry of this Court the parties shall, upon perusal, consider whether the order of the documents is in accordance with the said practice, and, if it is not, they shall agree upon the proper order in which they ought to be arranged. In the event of the parties being unable to agree, the matter shall be referred to the Registrar of the Court, who, if he thinks fit, may require the parties to attend before the Judge in Chambers for directions. The Appellant shall then rearrange copies of the Record for the use of the Court and the other parties.

20. When the Record is received in the Registry of this Court, and, if necessary, is rearranged in accordance with Rule 19 above, it shall be registered in the said Registry with the date of arrival, and names of the parties. Appeals shall be numbered consecutively in each year in the order in which the Records are received in the said Registry.

21. The parties shall be entitled to inspect the Record and to extract all necessary particulars therefrom for the purpose for entering an Appearance.

22. Each party who has entered an Appearance shall be entitled to receive, for his own use, four copies of the Record.

23. Subject to any special direction from the Court to the contrary, the costs of, and incidental to, the printing of the Record shall form part of the Appeal, but the costs of, and incidental to, the printing of any document objected to by one party, in accordance with Rule 17 above, shall if such document is found, on the taxation of costs, to be unnecessary or irrelevant, be disallowed to, or borne by, the party insisting on including the same in the Record.

Appellant's Appearance and Lodging of Petition of Appeal.

24. The Appellant shall enter an Appearance before taking any step in the prosecution of the Appeal, and after entering such Appearance shall forthwith give notice thereof to the Respondent.

25. The Appellant shall lodge his Petition of Appeal within a period of 30 days from the date of the service of notice of dispatch of the Record by the Registrar of the High Court.

26. The Petition of Appeal shall be lodged in the form prescribed by Rule 37 hereinafter contained. It shall recite succinctly and, as far as possible, in chronological order, the principal steps in the proceedings leading up to the Appeal from the commencement thereof down to the admission of the Appeal, but shall not contain argumentative matter or travel into the merits of the case.

27. The Appellant shall, after lodging his Petition of Appeal, serve a copy thereof without delay on the Respondent, as soon as the latter has entered an Appearance, and shall endorse such copy with the date of the lodgment.

Withdrawal of Appeal.

28. Where an Appellant, who has not lodged his Petition of Appeal,

desire to withdraw his Appeal, he shall give notice in writing to that effect to the Registrar of this Court, and the said Registrar shall, with all convenient speed after receipt of such notice, by letter notify the Registrar of the High Court that the Appeal has been withdrawn. The said appeal shall thereupon stand dismissed as from the date of the said letter without further Order, and the costs of the Appeal and the security entered into by the Appellant shall be dealt with in such manner as the High Court may think fit to direct.

29. Where an Appellant, who has lodged his Petition of Appeal, desires to withdraw his Appeal, he shall present a Petition to that effect to the Court. On the hearing of any such Petition a Respondent may apply to the Court for his costs.

Non-prosecution of Appeal; Change of Parties.

30. The provisions contained in rules 2 to 5 of Order XV in Part IIA shall apply in the case of failure on the part of the Appellant to prosecute his Appeal, and rules 6 and 7 thereof in case of change of parties.

Appearance by Respondent.

31. The Respondent may enter an Appearance at any time between the transmission of the Record by the High Court and the hearing of the Appeal, but if he unduly delays entering an Appearance he shall bear, or be disallowed; the costs occasioned by such delay, unless the Court otherwise directs.

32. The Respondent shall forthwith after entering an Appearance give notice thereof to the Appellant.

33. Where there are two or more Respondents, and only one, or some, of them enter an Appearance, the Appearance Form shall set out the names of the appearing Respondents.

34. Two or more Respondents may, at their own risk as to costs, enter separate appearances in the same Appeal.

35. A Respondent who has not entered an Appearance shall not be entitled to receive any notices relating to the Appeal from the Registrar of the Court, nor be allowed to lodge a Case in the Appeal.

36. Where a Respondent fails to enter an Appearance in an Appeal, the following Rules shall, subject to any special Order of the Court to the contrary, apply: (a) If the non-appearing Respondent was a Respondent at the time when the Appeal was admitted, whether by an Order of the Court appealed from or by an Order of this Court giving the Appellant special leave to appeal, and it appears from the terms of the said Order, or otherwise from the Record, or from a certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice, or was otherwise aware of the Order of the Court appealed from admitting the Appeal, or of the Order of this Court giving the Appellants special leave to appeal, and has also received notice, or was otherwise aware, of the dispatch of the Record to this Court, the Appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of 60 days from the date of the lodging of the Petition of Appeal; (b) if the non-appearing Respondent was made a Respondent by an Order of this Court subsequent to the admission of the Appeal, and it appears from the Record, or from a Supplementary record, or from a Certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice, or was otherwise aware, of any intended application to bring him on the record as a Respondent, the Appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of 60 days from the date on

which he shall have been served with a copy of the Order of this Court bringing him on the Record as a Respondent:

Provided that where it is shown to the satisfaction of the Registrar of this Court, by Affidavit or otherwise, either that an Appellant has made every reasonable endeavour to serve a non-appearing Respondent with the notices mentioned in clauses (a) and (b) respectively and has failed to effect such service or that it is not the intention of the non-appearing Respondent to enter an Appearance to the Appeal, the Appeal may, without further Order in that behalf and at the risk of the Appellant, be proceeded with *ex parte* as against the said non-appearing Respondent.

Petitions Generally

37. All Petitions shall consist of paragraphs numbered consecutively, and shall be fairly and legibly written, typewritten or lithographed on one side of standard petition paper, demy foolscap size, with quarter margin, and endorsed with the name of the Court appealed from, the full title and Federal Court number of the Appeal to which the Petition relates, or the full title of the Petition (as the case may be) and the name and address of the Agent (if any) of the Petitioner. Unless the Petition is a Consent Petition within the meaning of Rule 44 at least six copies thereof shall be lodged.

38. Where a Petition is expected to be lodged, or has been lodged, which does not relate to any pending Appeal of which the record has been registered in the Registry of this Court, any person claiming a right to appear before this Court on the hearing of such Petition may lodge a Caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the Petition, if at the time of the lodging of the Caveat such Petition has not yet been lodged, and, if and when the Petition has been lodged, to require the Petitioner to serve him with a copy of the Petition and to furnish him, at his own expense, with copies of any papers lodged by the Petitioner in support of his Petition. The Caveator shall forthwith, after lodging his Caveat, give notice thereof to the Petitioner, if the Petition has been lodged.

39. Where a Petition is lodged in the matter of any pending Appeal of which the Record has been registered in the Registry of this Court, the Petitioner shall serve any party who has entered an Appearance in the Appeal, with a copy of such Petition and the party so served shall thereupon be entitled to require the Petitioner to furnish him, at his own expense, with copies of any papers lodged by the Petitioner in support of his Petition.

40. A Petition not relating to any Appeal of which the Record has been registered in the Registry of this Court, and any other Petition containing allegations of fact which cannot be verified by reference to the registered Record or any certificate or duly authenticated statement of the Court appealed from, shall be supported by Affidavit. Where the Petitioner prosecutes his Petition in person, the said Affidavit shall be sworn by the Petitioner himself and shall state that, to the best of the deponent's knowledge, information and belief, the allegations contained in the Petition are true. Where the Petitioner is represented by an Agent, the said Affidavit may be sworn by such Agent and shall besides stating that, to the best of the deponent's knowledge, information and belief, the allegations contained in the Petition are true, show how the deponent obtained his instructions and the information enabling him to present the Petition.

41. The Registrar may refuse to receive a Petition on the grounds that it discloses no reasonable cause of Appeal, or is frivolous, or contains scandalous matter, but the Petitioner may appeal, by way of motion, from such refusal to the Court.

42. As soon as a Petition and all necessary documents are lodged, the Petition shall thereupon be deemed to be set down.

43. Subject to the provisions of the next following Rule, the Registrar shall, as soon as the Court has appointed a day for the hearing of a Petition, notify all parties concerned of the day so appointed.

44. Where the prayer of a Petition is consented to in writing by the opposite party, or where a Petition is of a formal and non-contentious character, the Court may, if it thinks fit, make an Order thereon, without requiring the attendance of the parties, and the Registrar shall not in any such case issue notice as provided by the last preceding Rule, but shall, with all convenient speed, after the Court has made its Order, notify the parties that the Order has been made and of the date and nature of such Order.

45. A Petitioner who desires to withdraw his Petition shall give notice in writing to that effect to the Registrar. Where the Petition is opposed, the Opponent shall, subject to any agreement between the parties to the contrary, be entitled to apply to the Court for his costs, but where the Petition is unopposed, or where, in the case of an opposed Petition, the parties have come to an agreement as to the costs of the Petition, the Petition may, if the Court thinks fit, be disposed of in the same way *mutatis mutandis* as a Consent Petition under the provisions of the last preceding Rule.

46. Where a Petitioner unduly delays bringing a Petition to a hearing, the Registrar shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may, after notifying all interested parties, place the Petition before the Court for such directions as the Court may think fit to give thereon.

47. At the hearing of a Petition not more than one Counsel shall be admitted to be heard on a side.

Lodging of Case, etc.

48. No party to an Appeal shall be entitled to be heard by the Court unless he has previously lodged his Case in the Appeal :

Provided that where a Respondent who has entered an Appearance does not desire to lodge a Case in the Appeal, he may give the Registrar of the Court notice in writing of his intention not to lodge any Case, while reserving his right to address the Court on the question of costs:

49. Each party shall lodge twelve copies of his Case, printed or neatly typed with quarter margin, on one side of standard petition paper of the same size and quality as that used in the printing of the Record in the High Court.

50. The Case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the Appeal arises, the contentions to be urged by the party lodging the same, and the reasons of Appeal. References by page and line to the relevant portions of the Record as printed shall, as far as practicable, be printed or typed in the margin, and care shall be taken to avoid, as far as possible, the reproducing in the Case of long extracts from the Record. The Taxing Officer in taxing the costs of the Appeal shall, either of his own motion, or at the instance of the opposite party, enquire into any unnecessary prolixity in the Case, and shall disallow the costs occasioned thereby.

51. Two or more Respondents may, at their own risk as to costs, lodge separate Cases in the same Appeal.

52. Each party shall, after lodging his Case, forthwith give notice thereof to the other party.

53. Subject as hereinafter provided, the party who lodges his Case first may, at any time after the expiration of three clear days from the date on which he has given the other party the notice prescribed by the last preceding Rule, serve such other party if the latter has not in the meantime lodged

his Case with a Case Notice requiring him to lodge his Case within 30 days from the date of the service of the said Case Notice and informing him that, in default of his so doing, the Appeal will be set down for hearing *ex parte* as against him, and if the other party fails to comply with the said Case Notice, the party who has lodged his Case may, at any time after the expiration of the time limited by the said Case Notice for the lodging of the Case, lodge an Affidavit of Service (which shall set out the terms of the said Case Notice), and the Appeal shall thereupon, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the party in default :

Provided that no Case Notice shall be served until after the transmission of the Record by the High Court and also that nothing in this Rule contained shall preclude the party in default from lodging his Case at his own risk as regards the costs and otherwise, at any time upto the date of hearing.

54. Subject to the provisions of Rule 36 and of the last preceding Rule, an Appeal shall be set down *ipso facto* as soon as the Cases on both sides are lodged, and the parties shall thereupon exchange the Cases by handing one another, either at the Offices of one of the Agents or in the Registry of the Court, six copies of their respective cases.

Binding of Records etc.

55. As soon as an Appeal is set down, the Appellant shall attend at the Registry and obtain ten copies of the Record and Cases to be bound for the use of the Court at the hearing. The copies shall be bound in cloth or in one-fourth leather with paper sides, and six leaves of blank paper shall be inserted before the Appellant's Case. The front cover shall bear a printed label stating the title and Federal Court number of the Appeal, the contents of the volume, and the names and addresses of the Agents. The several documents, indicated by incuts, shall be arranged in the following order : 1. Appellant's Case ; 2. Respondent's Case ; 3. Record (if in more than one part, showing the separate parts by incuts, all parts being paged at the top of the page) ; 4. Supplemental Record (if any) ; and the short title and Federal Court number of the Appeal shall also be shown on the back.

56. The Appellant shall lodge the bound copies not less than ten clear days before the date fixed for the hearing of the appeal.

Hearing of Appeals.

57. All appeals filed in the Registry shall, as far as possible, be heard in the order in which they are set down.

58. The Registrar shall, subject to the provisions of Rule 35, notify the parties to the appeal of the day fixed for the hearing.

59. Subject to the directions of the Court, at the hearing of an appeal not more than two Advocates shall be heard on a side.

60. The Appellant shall not, without the leave of the Court, rely at the hearing on any grounds not specified in the Petition of Appeal or the Case filed by him.

61. Where the Court, after hearing an appeal, decides to reserve its judgment therein, the Registrar shall notify the parties through their Agents of the day appointed by the Court for the delivery of the judgment.

62. A Respondent may within the time limited for Appearance deliver to the Registrar and to the Appellant a notice in writing consenting to the Appeal, and the Court may thereupon, if it thinks fit, make an Order upon the appeal without requiring the attendance of the person so consenting.

Miscellaneous.

63. The filing of an Appeal shall not prevent execution of the decree or order appealed against, but the Court may, subject to such terms and

conditions as it may think fit to impose, order a stay of execution in any case under appeal to the Court.

64. A Respondent may apply for the summary determination of an Appeal on the ground that it is frivolous or vexatious or brought for the purpose of delay, and the Court shall make such Order thereon as it thinks fit.

65. A Party to an Appeal who appears in person shall furnish the Registrar with an address for service and all documents left at that address, or sent by registered post to that address, shall be deemed to have been duly served.

Published in the *Gazette of India*, Part I, dated the 14th February 1948.

MINISTRY OF HOME AFFAIRS

New Delhi, the 10th February 1948

No. 9/9/46-Political. (EW).—In exercise of the powers conferred by section 3 of the **Foreigners Act, 1946** (XXXI of 1946), and in supersession of the Foreigners Order, 1939, and of all notifications amending the same, the Central Government is pleased to make the following order:—

1. *Short title, commencement and extent.*—(1) This Order may be called the Foreigners Order, 1948.

(2) It shall come into force at once

(3) It extends to the whole of India.

2. *Definitions.*—In this Order—

(1) "Registration Officer" means a Registration Officer as defined in the Registration of Foreigners Rules, 1939, or such other officer as may be authorised by him to perform the functions of a Registration Officer under this Order;

(2) "Civil authority" means such authority as may be appointed by the Central Government in this behalf for such area as it thinks fit;

(3) "Part" II includes an airport.

3. *Power to grant or refuse permission to enter India.*—(1) No foreigner shall enter India otherwise than at a port or such place of entry on the borders of India as a Registration Officer having jurisdiction at such port or place may appoint in this behalf, or without the leave of the civil authority having jurisdiction at such port or place.

(2) Leave to enter shall be refused if the civil authority is satisfied that—

(a) the foreigner is not in possession of a valid passport or visa for India or has not been exempted from the possession of a passport or visa;

(b) he is a person of unsound mind or a mentally defective person;

(c) he is suffering from a loathsome or infectious disease in consequence of which, in the opinion of the medical officer of the port or the place of entry, as the case may be, the entry of the foreigner is likely to prejudice public health;

(d) he has been sentenced in a foreign country for an extradition offence within the meaning of the Indian Extradition Act, 1903 (XV of 1903);

(e) his entry is prohibited either under an order issued by a competent authority or under the specific orders of the Central Government.

(3) The civil authority may attach such conditions as it thinks fit to the grant of leave to enter and such conditions may be varied in such manner or cancelled as the Central Government deems fit.

(4) (a) Notwithstanding anything contained in sub-paragraphs (1) to (3) or in the Indian Passport Act, 1920 (XXXIV of 1920), or in the rules made thereunder, a civil authority may, in the interests of public safety, prohibit the entry of any foreigner into India.

(b) Whenever the civil authority issues an order under clause (a), it shall report the matter forthwith to the Central Government which may

cancel or modify the order in such manner as it thinks fit.

(5) Where leave to enter is refused to a foreigner, he may be detained at some place approved by the civil authority and may, if he has come by sea, be placed temporarily on shore for that purpose; and whilst he is so detained a foreigner shall be deemed to be in legal custody and not to have entered India.

4. *Landing of Seamen.*—(1) No seaman or member of the crew of an aircraft, being a foreigner, shall land in India without a special permit from the Superintendent of Police or any other Police officer not below the rank of a Sub-Inspector or Sergeant.

(2) No such permit shall be granted unless the owners or agents of the vessel or aircraft have undertaken either generally in respect of all members of the crew of vessels or aircraft belonging to or managed by them or in an individual case the responsibility for the maintenance of such seaman or member of the crew during his residence in India and for the expenses of his departure from India.

(3) For the purpose of this paragraph "Seaman" has the meaning assigned to it in the Registration of Foreigners Rules, 1939.

(4) The provisions of this paragraph are in addition to, and not in derogation of, the provisions of paragraph 3.

5. *Power to grant permission to depart from India.*—(1) No foreigner shall leave India otherwise than at a port or such recognised place of departure on the borders of India as a Registration officer having jurisdiction at such port or place may appoint in this behalf, or without the leave of the civil authority having jurisdiction at such port or place.

(2) Leave shall be refused if the civil authority is satisfied that:

(a) the foreigner has failed to comply with the formalities of departure prescribed under the Registration of Foreigners Rules, 1939;

(b) the foreigner's presence is required in India to answer a criminal charge;

(c) the foreigner's departure will prejudice the relations of the Central Government with a foreign power;

(d) the departure of the foreigner has been prohibited under an order issued by a competent authority.

(3) (a) Notwithstanding anything contained in the above sub-paragraphs; a civil authority may prohibit the departure of a foreigner where it is satisfied that such departure would not be conducive to the public interest;

(b) whenever a civil authority issues an order under clause (a), it shall report the matter forthwith to the Central Government which may cancel or modify the order in such manner as it thinks fit.

6. *Liability of Master of Vessel etc. to remove a foreigner.*—(1) A civil authority may require the master of the vessel or pilot of the aircraft in which a foreigner has arrived or the owners or agents of that vessel or aircraft, as may be appropriate in the opinion of such civil authority, to remove a foreigner who has been refused permission to enter, or who has entered India without its permission, and the master, pilot, owner or agent, as the case may be, shall comply with such requisition, unless it is received more than two months after the date of the arrival of the foreigner in India.

(2) The master of a vessel or the pilot of an aircraft, scheduled to call at any port outside India, shall, if so required by the Central Government, receive a foreigner in respect of whom an order directing that he shall not remain in India has been made, and his dependants, if any, on board the vessel or aircraft, as the case may be, and afford him and them a passage to that port and proper accommodation and maintenance during the passage.

7. *Restriction on sojourn in India.*—Every foreigner who enters India on the authority of a visa issued in pursuance of the Indian Passport Act, 1920 (XXXIV. of 1920), shall obtain from the Registration Officer having jurisdiction at the place at which the said foreigner enters India a permit indicating the period during which he is authorised to remain in India and shall, unless the period indicated in the permit is extended by the Central Government, depart from India before the expiry of the said period; and at the time of the foreigner's departure from India the permit shall be surrendered by him to the Registration Officer having jurisdiction at the place from which he departs.

8. *Prohibited places.*—(1) No foreigner shall, without the permission of the civil authority having jurisdiction at such place, visit, or reside in, any prohibited place as defined in the Indian Official Secrets Act, 1923 (XIX of 1923).

(2) Where any foreigner is, on the commencement of this Order, residing in any prohibited place and is not permitted to continue to reside there, he shall, within such time as may be specified by the civil authority, remove himself from such place.

(3) The civil authority may impose on any householder or other person in such prohibited place the obligation to report to the police or to any naval, military, or airforce authority the presence of any foreigner in his household or in any premises occupied by him or under his control and the departure of any such foreigner and such other particulars with respect to such foreigner as may be prescribed by such authority.

9. *Protected Areas.*—(1) The Central Government or, with its prior sanction, a civil authority may by order declare any area to be a protected area for the purposes of this Order.

(2) On such declaration, the civil authority may, as to any protected area, by order:

(a) prohibit any foreigner or any class of foreigners from entering or remaining in the area;

(b) impose on any foreigner or class of foreigners entering or being in the area such conditions or restrictions as it may think fit as to:

(i) reporting to the police or any naval, military, or air-force authority;

(ii) surveying or making sketches or photographs;

(iii) the use or possession of any machine, apparatus or other article of any description;

(iv) the acquisition of land or any interest in land within the area;

(v) any other matter or thing as to which it may deem it necessary in the interests of public safety to impose conditions or restrictions;

(c) impose on any householder or other person the obligation to report to the police or any naval, military, or air-force authority the presence of any foreigner in his household or in any premises occupied by him or under his control, and the departure of any such foreigner and such other particulars with respect to any such foreigner as may be prescribed by the Order:

Provided that the civil authority may, subject to any general or specific direction of the Central Government, grant to an individual foreigner a special permit exempting him from any or all of the conditions or restrictions imposed under this sub-paragraph.

10. *Restrictions on employment.*—No foreigner shall, without the permission in writing of the civil authority, either enter any premises relating to, or be employed in, or in connection with:

(1) any undertaking for the supply to Government or to the public of light, petroleum, power or water, or

(2) any other undertaking which may be specified by the Central Government in this behalf.

11. *Powers to impose restrictions on movements, etc.*—The civil authority may, by order in writing, direct that any foreigner shall comply with such conditions as may be specified in the order in respect of:—

- (1) his place of residence,
- (2) his movements;
- (3) his association with any person or class of persons specified in the order; and
- (4) his possession of such articles as may be specified in the order.

12. *Powers to remove foreigners from Cantonments.*—The military officer for the time being in command of the forces in a cantonment may, by order in writing, direct any foreigner to remove himself from the cantonment within a such time as may be specified in the order.

13. *Power to close clubs and restaurants.*—(1) A civil authority may direct that any premises in its jurisdiction which in its opinion are used for the sale of refreshments to be consumed on the premises, or as a place of public resort or entertainment, or as a club, and which are or have recently been frequented by foreigners, shall be either closed altogether or kept closed during such hours or for such purposes as may be required by it, if in its opinion either;

(a) the foreigners so frequenting the premises are of criminal or disloyal association or otherwise undesirable; or

(b) the premises are conducted in a disorderly or improper manner, or in a manner prejudicial to the public good;

and if any premises are kept open in contravention of any such direction the occupier or person having control of the premises shall be deemed to have acted in contravention of this Order.

(2) Where any premises have been closed under this paragraph the occupier or person having control of the premises shall not occupy or control any other premises which are used for the sale of refreshments, or as a place of public resort or entertainment, or as a club without the consent of the civil authority of the area in which the premises are situate.

(3) Any police officer, if authorised by a civil authority may, for the purpose of enforcing the provisions of this paragraph, enter, if necessary by force, and search or occupy any premises in respect of which an order under this paragraph has been made by the civil authority.

(4) Any action taken by the civil authority under sub-paragraphs (1) to (3) above shall be reported forthwith to the Central Government which may cancel or modify such order in such manner as it deems fit.

14. *Expenses of deportation.*—Where an order is made in the case of any foreigner directing that he shall not remain in India or where a foreigner is refused permission to enter India or has entered India without permission, the Central Government may, if it thinks fit, apply any money or property of the foreigner in payment of the whole or any part of the expenses of or incidental to the voyage from India and the maintenance until departure of the foreigner and his dependants, if any.

15. *Power of arrest and detention.*—If, in the opinion of the civil authority, it is necessary for the public safety so to do, the civil authority may arrest any foreigner without warrant and detain him in such manner and at such place as may to such authority appears suitable:

Provided that the manner of such detention shall not be more rigorous than the manner in which an arrested person is detained while in police custody under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898):

Provided further that a report of such arrest and detention shall be forthwith forwarded to the Central Government with a statement of the reasons therefor and the Central Government may cancel such order or

modify the manner of such detention in such manner as it may deem fit.

Published in the *Gazette of India, Extraordinary*, dated 11th February 1948.

MINISTRY OF LAW (REFORMS).

New Delhi, the 11th February 1948.

No. G. G. O. 36.—The following Order made by the Governor-General is published for general information :

The Indian Railways Act (Adaptation) Order, 1948.

In the exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order:—

1. (1) This Order may be cited as the Indian Railways Act (Adaptation) Order, 1948.

(2) It shall come into force at once.

2. The Indian Railways Act, 1890, shall, until repealed or altered or amended by a competent legislature, in its application to the Dominion of India or any part or parts thereof be subject to the adaptations directed in the Schedule to this Order.

3. The provisions of this Order shall have effect notwithstanding anything to the contrary contained in the India (Adaptation of Existing Indian Laws) Order, 1947.

THE SCHEDULE

Adaptations of the Indian Railways Act, 1890.

Throughout the Act, for "safety controlling authority", substitute "Central Government" and for "Federal Railway Authority", substitute "Central Government."

Section 1.—For sub-section (2) substitute :—

"(2) It extends to all the Provinces of India, and applies also to all British subjects within the Acceding States, and to all British subjects domiciled in India wherever they may be."

Section 3.—In clause (3), omit "in British India"; in clause (6), omit "Native" at both places; omit clauses (20) and (21); and for clause (22), substitute —

"(22) 'the general controlling authority' means, in relation to a minor railway wholly situate in a Province, the Provincial Government, and in relation to any other railway, the Central Government."

Section 42.—In clause (f) of the proviso to sub-section (4), for "make their order", substitute "makes its order".

Section 42B.—In sub-section (2), for "that Authority" substitute "the Central Government".

Section 46.—In sub-sections (1) and (2), for "appropriate authority", substitute "general controlling authority"; and omit sub-section (3).

Omit section 46B.

Section 47.—In sub-section (3), after "general controlling authority" and "insert" "where that authority is not the Central Government, also of", and in clause (a) of the proviso, omit "the same as"; and for sub-section (4), substitute :—

"(4) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, any rule made under this section may be cancelled—

(a) where the general controlling authority concerned is the Central Government; by that Government; and

(b) where that authority is not the Central Government, by that authority with the sanction of the Central Government :

Provided that the Central Government shall not refuse its sanction to the cancellation of any rule unless it appears to it to be necessary so to do for the purpose of securing safety".

In sections 49, 50, 51 and 51A, omit "not being a company for which the Statute 42 and 43 Vict, Chap. 41 provides".

Section 90.—For "where the safety controlling authority is different from the general controlling authority" substitute "where the general controlling authority is not the Central Government".

Section 140.—omit "Native".

Section 145.—Omit "Native".

Published in the *Gazette of India*, Extraordinary, dated the 30th April 1948.

MINISTRY OF LAW (REFORMS).

New Delhi, the 30th April, 1948.

No. S. O. 10.—The following Order made by the Governor-General is published for general information:—

The Orissa High Court Order, 1948.

WHEREAS the Orissa Legislative Assembly have on the third day of March, 1948, presented an address to the Governor of Orissa for submission to the Governor-General that a High Court be constituted for the Province of Orissa and the said address has been submitted to the Governor-General;

Now, THEREFORE, in the exercise of the powers conferred by sub-section (1) of section 229 of the Government of India Act, 1935, as adapted by the India Provisional Constitution (Amendment) Order, 1948, the Governor-General is pleased to make the following Order:—

1. (1) This Order may be cited as the Orissa High Court Order, 1948.

(2) It shall come into force on the date of its publication in the *Gazette of India*.

2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) In this Order "the Act" means the Government of India Act, 1935, as for the time being in force in the Dominion of India.

3. (1) As from the [twenty-sixth day of July¹] 1948 (hereinafter referred to as "the prescribed day") there shall be a High Court for the Province of Orissa which shall be a court of record and shall consist of a Chief Justice and such other judges as the Governor-General may from time to time whether before or after the prescribed day, appoint in accordance with the provisions of section 220 of the Act;

Provided that any appointment so made before the prescribed day shall not take effect till the prescribed day.

(2) The said High Court is hereinafter referred to as "the High Court of Orissa".

4. The High Court of Orissa shall have, in respect of the territories for the time being included in the Province of Orissa, all such original, appellate and other jurisdiction as under the law in force immediately before the prescribed day is exercisable in respect of the said territories or any part thereof by the High Court in Patna.

5. (1) The High Court of Orissa shall have the like power to approve, admit, enroll, remove and suspend advocates and attorneys and to make rules with respect to advocates and attorneys as are under the law in force immediately before the prescribed day, exercisable by the High Court in Patna.

(2) The right of audience in the High Court of Orissa shall be regulated in accordance with the like principles as immediately before the prescribed

1. Substituted for the words "fifth day of July" by the Orissa High Court (Amendment) Order, 1948.

ed day are in force with respect to the right of audience in the High Court in Patna :

Provided that subject to any rule made or direction given by the High Court of Orissa in the exercise of the powers conferred by this Article any person who immediately before the prescribed day, is an advocate entitled to practice or an attorney entitled to act in the High Court in Patna shall be recognised as an advocate or an attorney entitled to practice or to act, as the case may be, in the High Court of Orissa.

6. Subject to the provisions of this Order, the law in force immediately before the prescribed day with respect to practice and procedure in the High Court in Patna shall, with the necessary modifications, apply in relation to the High Court of Orissa and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the prescribed day exercisable by the High Court in Patna :

Provided that any rules or orders which are in force immediately before the prescribed day with respect to practice and procedure in the High Court in Patna shall, until varied or revoked by rules or orders made by the High Court of Orissa apply with the necessary modifications in relation to practice and procedure in the High Court of Orissa as if made by that Court.

7. (1) The High Court of Orissa shall have a seal of such form and design as the Chief Justice may direct.

(2) The law in force immediately before the prescribed day with respect to the custody of the seal of the High Court in Patna shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Orissa.

8. The law in force immediately before the prescribed day with respect to the form of writs and other processes used, issued or awarded by the High Court in Patna shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Orissa.

9. The law in force immediately before the prescribed day relating to the powers of the Chief Justice, single judge and division courts of the High Court in Patna and with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modifications, apply in relation to the High Court of Orissa.

10. The High Court of Orissa and the judges and division courts thereof shall sit at such places in the Province of Orissa as the Chief Justice may with the approval of the Governor of Orissa appoint.

11. The law in force immediately before the prescribed day relating to appeals to His Majesty in Council or to the Federal Court from the High Court in Patna and the judges and division courts thereof shall with the necessary modifications apply in relation to the High Court of Orissa.

12. (1) Except as hereinafter provided the High Court in Patna shall, on and after the prescribed day, have no jurisdiction in respect of the Province of Orissa.

(2) Notwithstanding anything contained in paragraph (1) of this Article or in Article 4,—

(a) the High Court in Patna shall have the like jurisdiction to hear and determine any appeal from, or to review, any order of a Judge of that High Court, whether on its original or appellate side, as if this order had not been made, and the High Court of Orissa shall have no jurisdiction to hear or determine any such appeal or to review any such order ; and

(b) the High Court in Patna shall have the like jurisdiction to hear and dispose of any application for leave to appeal to His Majesty in Council or the Federal Court from an order of that High Court as it would have if this order had not been made, and the High Court of Orissa shall have no jurisdiction to hear or dispose of any such application.

(3) All proceedings pending in the High Court in Patna immediately before the prescribed day, other than proceedings with respect to which that High Court retains jurisdiction by virtue of paragraph (2) of this Article, shall, where the court of origin is situated in the Province of Orissa, stand transferred by virtue of this order to the High Court of Orissa.

(4) Any order made by the High Court in Patna—

(a) in any proceedings with respect to which that High Court retains jurisdiction by virtue of paragraph (2) of this Article, or

(b) before the prescribed day in any proceedings transferred to the High Court of Orissa by virtue of paragraph (3) of this Article, shall for all purposes have effect, not only as an order of the High Court in Patna, but also as an order made by the High Court of Orissa.

(5) For the purposes of this Article, proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings.

(6) References in this Article to a High Court shall be construed as including references to a judge or division court thereof and references to an order made by the court or a judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or judge.

13. Nothing in this Order shall prejudice the application to the High Court of Orissa of any relevant provisions of the Act, and this Order shall have effect subject to any provision that may be made on or after the prescribed day with respect to that High Court by any legislature or authority having power to make such provision.

MOUNTBATTEN OF BURMA,

Governor-General.

Published in the *Gazette of India*, Extraordinary, dated the 1st May 1948.

MINISTRY OF HOME AFFAIRS.

New Delhi, the 1st May 1948.

No. 8/5/48-Judicial.—In exercise of the powers conferred by section 7 of the **Delhi Laws Act, 1912** (XIII of 1912), the Central Government is pleased to extend the Punjab Public Safety (East Punjab Amendment) Act, 1948 (East Punjab Act XXVII of 1948), to the province of Delhi, subject to the modification that in section 2 of the said Act, the words “as applied to the province of Delhi” shall be added after the words and figures “the Punjab Public Safety Act, 1947”.

No. 8/5/48-Judicial.—In exercise of the powers conferred by section 2 of the **Ajmer-Merwara (Extension of Laws) Act, 1947** (LII of 1947), the Central Government is pleased to extend the Punjab Public Safety (East Punjab Amendment) Act, 1948 (East Punjab Act XXVII of 1948), to the province of Ajmer-Merwara, subject to the modification that in section 2 of the said Act, the words “as applied to the province of Ajmer-Merwara” shall be added after the words and figures “the Punjab Public Safety Act, 1947”.

Published in the *Gazette of India*, Extraordinary, dated the 4th June 1948.
MINISTRY OF LAW (REFORMS).

New Delhi, the 4th June 1948.

No. S. O. 13.—The following Order made by the Governor-General is published for general information:—

**The Bombay (Enlargement of Area and Alteration of Boundaries)
 Order, 1948.**

WHEREAS by section 290 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, it is provided that the Governor-General may, by order, increase the area, and alter the boundaries, of any Province and make such provisions as the Governor-General may deem necessary or proper for any supplementary, incidental or consequential matters;

AND WHEREAS it is expedient that certain areas outside the Dominion of India should be included therein and made part of the Province of Bombay;

AND WHEREAS in accordance with the provisions of the said section 290 the Governor-General has ascertained the views of the Government of the Province of Bombay both with respect to the proposal to make the order and with respect to the provisions to be inserted therein;

NOW, THEREFORE, in exercise of the powers conferred on him by the said section and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order:—

1. (1) This Order may be cited as the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948.

(2) It shall come into force on the tenth day of June, 1948.

2. The areas specified in the Schedule to this Order (hereinafter referred to as "the added areas") are hereby included in the territories of the Dominion of India.

3. The added areas shall form part of the Province of Bombay, and the boundaries of that Province shall be so altered as to comprise within them the added areas.

4. (1) The Governor of Bombay shall, by order notified in the Official Gazette, provide for the administration of the added areas as part of the Province, either by constituting all or any of them into one or more new districts of the Province, or by making all or any of them part of one or more existing districts, or partly by one and partly by the other of the said methods, and make such further provision as appears to him to be necessary or expedient—

(a) for extending to the added areas any laws for the time being in force in the Province or any part thereof; and

(b) for removing difficulties arising in connection with the absorption of the added areas in the Province.

(2) Any order made under this Article may be made so as to be retrospective to any date not earlier than the date of commencement of this Order.

(3) Any order made under this Article shall be subject to the same powers of repeal and amendment as laws of the Provincial Legislature.

No order shall be made under this Article after the expiration of six months from the date of the commencement of this Order.

SCHEDULE

The areas comprised in the following Bstates and Talukas of the Western India and Gujarat States region :—

Rewa Kantha Region

- | | |
|---------------|-------------|
| 1. Agar | 7. Shanor |
| 2. Chhaliar | 8. Sihora |
| 3. Gad-Boriad | 9. Uchad |
| 4. Mandwa | 10. Umeta |
| 5. Naswadi | 11. Vajiria |
| 6. Palasni | |

Sankheda Mewas

- | | |
|------------------|---------------------|
| 12. Vora | 22. Rampura |
| 13. Alwa | 23. Pantalavdi |
| 14. Wasan Wirpur | 24. Nangam |
| 15. Wasen Sewada | 25. Chudeswar |
| 16. Chorangla | 26. Bihora |
| 17. Vanmala | 27. Bengan |
| 18. Bhilodia | 28. Nalia |
| 19. Sindhiapura | 29. Vadia-Virampura |
| 20. Jiral | 30. Dudhpur |
| 21. Kamsoli | |

Pandu Mewas

- | | |
|---------------|------------------------|
| 31. Anghad | 42. Varnol Mal |
| 32. Pandu | 43. Gotardi |
| 33. Mevli | 44. Moka-Paginu-Mauda. |
| 34. Dhari | 45. Moti Varnoli |
| 35. Raika | 46. Rajpur |
| 36. Dodka | 47. Jesar |
| 37. Gothda | 48. Amrapur |
| 38. Kanoda | 49. Jumkha |
| 39. Poicha | 50. Kasla-Paginu-Mauda |
| 40. Itwad | 51. Nani Varnoli |
| 41. Vakhtapur | 52. Nahara |

Banas Kantha Region

- | | |
|---|--|
| 53. Adesar | 57. Thara |
| 54. Deodar (Waghela Himatsinhji) | 58. Varahi (Malek Shri Hussinya-varkhanji) |
| 55. Deodar (Waghela Viramsinhji Khanji) | 59. Varahi (Malek Shri Murid-Khanji) |
| 56. Terwada | |

Kankrej Thana

- | | |
|----------------------|--------------------|
| 60. Sihori | 73. Madkol |
| 61. Un | 74. Khimana |
| 62. Kevalpuri Thali | 75. Bhadramali |
| 63. Arnivada | 76. Dasana Vas |
| 64. Ranekpur | 77. Lunpur |
| 65. Indermana | 78. Zabadia |
| 66. Manpur | 79. Sadarpur |
| 67. Thara Saduji Vas | 80. Samau-Nana Vas |
| 68. Bhalgam | 81. Samau-Mota Vas |
| 69. Khengarpur | 82. Bukoli |
| 70. Runi | 83. Raner |
| 71. Shirwada | 84. Kamboi |
| 72. Kharia | 85. Ranawada |

Kankrej Thana—Contd.

- | | |
|---------------|----------------|
| 86. Anganwada | 91. Balochpur |
| 87. Akoli | 92. Kakar |
| 88. Dugrasan | 93. Vada |
| 89. Ruppura | 94. Chemla |
| 90. Umri | 95. Dev Darbar |

Suigam Sub-Thana

- | | |
|--------------|-------------|
| 96. Suigam | 101. Asara |
| 97. Radosam | 102. Nesda |
| 98. Nalodar | 103. Golap |
| 99. Jalana | 104. Mamna |
| 100. Kanothi | 105. Koretl |

Deodar Thana

- | | |
|-----------------------|---------------------|
| 106. Bhabhar Nava Vas | 122. Vatam Juna Vas |
| 107. Bhabhar Juna Vas | 123. Vatam Nava Vas |
| 108. Ujjanwada | 124. Jalodha |
| 109. Panvi | 125. Dhankwada |
| 110. Ganjesar | 126. Duchakwada |
| 111. Chatar | 127. Niladar |
| 112. Kaprupur | 128. Golvi |
| 113. Karela | 129. Chibdha |
| 114. Oghadpura | 130. Mithi Paldi |
| 115. Gagun | 131. Chalwa |
| 116. Mojru | 132. Makdala |
| 117. Surana | 133. Porna |
| 118. Delvada | 134. Vesarda |
| 119. Sanadar | 135. Dhunsol |
| 120. Malukpur | 136. Vajapur |
| 121. Kapdi Dev | 137. Bhatvar |

Santhalpur Thana

- | | |
|---------------------|-------------------------|
| 138. Dhokwada | 153. Madhutra |
| 139. Rajusara | 154. Anternes (Jadeja) |
| 140. Par | 155. Anternes (Rahumas) |
| 141. Bakutra | 156. Garmdi |
| 142. Mora Pati | 157. Adesar |
| 143. Nanda Pati | 158. Varnosari |
| 144. Pipralia | 159. Zazam |
| 145. Sanva | 160. Boru |
| 146. Barala | 161. Kilana |
| 147. Vahuva | 162. Dhrechana |
| 148. Dhadalia Padar | 163. Chalanda |
| 149. Eval | 164. Soneth |
| 150. Jakhotra | 165. Masali |
| 151. Charanka | 166. Limbuni |
| 152. Chhanasara | 167. Babra |

Varahi Thana

- | | |
|---------------|-----------------------|
| 168. Varahi | 175. Daisar |
| 169. Korda | 176. Daldi |
| 170. Gadha | 177. Bamroli |
| 171. Unrot | 178. Gokhan'ar |
| 172. Zandada | 179. Inderva Juna Vas |
| 173. Jhekda | 180. Inderva Nava Vas |
| 174. Koliwade | 181. Sadev |

Varahi Thana—Contd.

- | | |
|-----------------------|----------------|
| 182. Sidhada | 186. Saiyadpur |
| 183. Chichodra | 187. Daigamda |
| 184. Thanvad | 188. Uchosan |
| 185. Lodra and Unnadi | |

Mahi Kantha Region.

- | | |
|---------------|----------------|
| 189. Bhalusna | 200. Likhi |
| 190. Bolundra | 201. Magodi |
| 191. Dabha | 202. Palaj |
| 192. Dadhalia | 203. Prempur |
| 193. Dadhrota | 204. Ramas |
| 194. Derol | 205. Rupal |
| 195. Gabad | 206. Sathamba |
| 196. Hadol | 207. Satlasna |
| 197. Hapa | 208. Tajpuri |
| 198. Kadoli | 209. Vadagam |
| 199. Khedwada | 210. Vakhtapur |

Gadhvada Thana

- | | |
|---|---------------|
| 211. Mota Kothasna | 217. Nedardi |
| 212. Umbri | 218. Ambavada |
| 213. Nana Kothasna | 219. Vinchhi |
| 214. Timba | 220. Chandap |
| 215. Dedasan | 221. Gazipur |
| 216. The Thakor of Undmils
estate in the Hadol Taluka. | 222. Mohor |

Katosan Thana

- | | |
|---------------|-------------------------|
| 223. Maguna | 228. Kasalpura |
| 224. Deloli | 229. Ranipura |
| 225. Rampura | 230. Memadpura |
| 226. Tejapura | 231. Ijpura (Jethajina) |
| 227. Virsoqa | 232. Ijpura (Barotna) |

MOUNTBATTEN OF BURMA,

Governor-General.

Published in the *Gazette of India*, Extraordinary, dated the 15th June 1948.

MINISTRY OF FINANCE

New Delhi, the 15th June 1948.

No. F. 10 (1) (a)-F. (1)/48.—In pursuance of sub-section (3) of section 1 of the **Industrial Finance Corporation Act, 1948** (XV of 1948), read with section 22 of the General Clauses Act, 1897 (X of 1897), the Central Government is pleased to direct that the first mentioned Act shall come into force on the first day of July, 1948.

Published in the *Gazette of India*, Extraordinary, dated the 15th June 1948.

MINISTRY OF HOME AFFAIRS

New Delhi, the 15th June 1948.

No. 8/7/48-Judicial.—In exercise of the powers conferred by Section 7 of the **Delhi Laws Act, 1912** (XIII of 1912), the Central Government is pleased to direct that the following further amendments shall be made in the notification of the Government of India in the late Home Department No. 189/38-Judicial, dated the 30th May, 1939, namely :—

In the Schedule annexed to the said notification.—

1. Entry 8 relating to the Punjab Primary Education Act 1919 (XVIII of 1940) shall be omitted.

2. In column 3 after item (3) relating to entry 58B, the following shall be inserted, namely :—

“(4) In section 2, for clause (h) the following clause shall be substituted, namely :—

“(h) “School age” means an age which is not under six and not over eleven years.”

(5) In clause (a) of Section 9 for the words “two miles” the words “one mile” shall be substituted.

(6) In clause (a) of section 17 the words “exclusively for girls” shall be omitted.”

Published in the *Gazette of India*, Extraordinary, dated the 15th June 1948.

MINISTRY OF LAW (REFORMS).

New Delhi, the 15th June 1948.

No. S. O. 15.—The following Order made by the Governor-General is published for general information :—

The Madras Partially Excluded Area (Cesser) Order, 1948.

In the exercise of the powers conferred by clause (b) of the proviso to section 91 of the Government of India Act, 1935, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the Madras Partially Excluded Area (Cesser) Order, 1948.

2. As from the first day of July, 1948, the area comprised in the villages specified below, which forms part of a partially excluded area in the West Godavari district of the Province of Madras, shall cease to be part of that area :—

A. Villages in Polavaram firka, the following :—

- | | |
|--------------------------|----------------------------------|
| 1. Gangole | 12. Pattisam. |
| 2. Dondapudi. | 13. Gutala. |
| 3. Sagipadu. | 14. Tadipudi (Gutala part). |
| 4. Karakapadu. | 15. Tadipudi (Pattisam part). |
| 5. Mangipārthi Devipeta. | 16. Ragolapalli (Gutala part). |
| 6. Kannapuram. | 17. Ragolapalli (Pattisam part). |
| 7. Mahadevapuram. | 18. Pochavaram. |
| 8. Dippakayalapadu. | 19. Tupakulagudem. |
| 9. Venkatayipalem. | 20. Bayyavaram. |
| 10. Cherukumilli. | 21. Venkatapuram. |
| 11. Ballipadu. | 22. Suggonda. |

B. Villages in Zangareddigudem firka, the following :—

- | | |
|---------------------------------|----------------------------|
| 1. Saripalli (Zamindari). | 6. Bayyagudem (Zamindari). |
| 2. Zangareddigudem (Zamindari). | 7. Akkampeta. |
| 3. Vedantapuram (Inam). | 8. Sreenivasapuram (Inam). |
| 4. Ramanujapuram (Inam) | 9. Pullepudi (Inam). |
| 5. Parimpudi. | 10. Pattenapalem. |

C. Villages in Jeelugumli firka, the following :—

- | | |
|-----------------|---------------------------------|
| 1. Mysenagudem. | 4. Matanagudem. |
| 2. Peddipalli. | 5. Ayyavari (Polavaram) (Inam). |
| 3. Taduvayi. | |

MOUNTBATTEN OF BURMA,

Governor-General.

PART III

CENTRAL ACTS

The Indian Patents and Designs (Extension of Time) Amendment Act, 1947.

Received the assent of the Governor-General on the 15th December 1947 and is published in the Gazette of India, Part IV, dated the 15th December 1947.

Act No. XXXVII of 1947.

An Act further to amend the Indian Patents and Designs (Extension of Time) Act, 1942.

WHEREAS it is expedient further to amend the Indian Patents and Designs (Extension of Time) Act, 1942 (X of 1942), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Patents and Designs (Extension of Time) Amendment Act, 1947.

2. *Amendment of section 1, Act X of 1942.*—For sub-section (3) of section 1 of the Indian Patents and Designs (Extension of Time) Act, 1942, the following sub-section shall be substituted, and shall be deemed always to have been substituted, namely:—

“(3) It shall be in force up to the 30th day of June 1948.”

3. *Repeal of Ordinance VII of 1947.*—The Indian Patents and Designs (Extension of Time) Amendment Ordinance, 1947, is hereby repealed.

The Foreigners (Amendment) Act, 1947.

Received the assent of the Governor General on the 15th December 1947 and is published in the Gazette of India, Part IV, dated the 15th December 1947.

Act No. XXXVIII of 1947.

An Act to amend the Foreigners Act, 1946.

WHEREAS it is expedient to amend the Foreigners Act, 1946 (XXXI of 1946), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Foreigners (Amendment) Act, 1947.

2. *Substitution of “India” for “British India” in Act XXXI of 1946.*—In the Foreigners Act, 1946 (hereinafter referred to as the said Act), for the words “British India”, wherever they occur, the word “India” shall be substituted.

3. *Amendment of section 2, Act XXXI of 1946.*—In clause (a) of section 2 of the said Act—

(a) for the words “Indian State” the words “acceding State” shall be substituted;

(b) for the words “Tribal areas” the words “Assam tribal areas” shall be substituted.

4. *Amendment of section 3, Act XXXI of 1946.*—(1) In sub-section (2) of section 3 of the said Act,—

(a) after clause (c) the following clause shall be inserted, namely:—
“(cc) shall, if he has been required by order under this section not to remain in India, meet from any resources at his disposal the cost of his remo-

val from India and of his maintenance therein pending such removal;";

(b) after the words "and may make provision" the words "for any matter which is to be or may be prescribed and" shall be inserted.

(2) To the said section 3 the following sub-section shall be added, namely:—

"(3) Any authority prescribed in this behalf may, with respect to any particular foreigner make orders under clause (e), clause (f) or clause (g) of sub-section (2)."

5. *Amendment of section 6 Act XXXI of 1946.*—In section 6 of the said Act, sub-section (4) shall be renumbered as sub-section (6), and after sub-section (3) the following sub-sections shall be inserted, namely:—

"(4) If any foreigner enters India in contravention of any provision of this Act or any order made thereunder, the prescribed authority may, within two months from the date of such entry, direct the master of the vessel or the pilot of the aircraft on which such entry was effected or the owner or the agent of the owner of such vessel or aircraft, to provide, to the satisfaction of the said authority and otherwise than at the expense of Government, accommodation on a vessel or aircraft for the purpose of removing the said foreigner from India.

(5) The master of any vessel or the pilot of any aircraft which is about to carry passengers from a port or place in India to any destination outside India, or the owner or the agent of the owner of any such vessel or aircraft shall, if so directed by the Central Government and on tender of payment therefor at the current rates, provide on the vessel or aircraft accommodation to such port or place outside India, being a port or place at which the vessel or aircraft is due to call, as the Central Government may specify, for any foreigner ordered under section 3 not to remain in India and for his dependents, if any, travelling with him."

6. *Amendment of section 7, Act XXXI of 1946.*—To section 7 of the said Act, the following sub-section shall be added, namely:—

"(4) If in any area prescribed in this behalf the prescribed authority by notice published in such manner as may in the opinion of the authority be best adapted for informing the persons concerned so directs, it shall be the duty of every person occupying or having under his control any residential premises to submit to such person and in such manner such information in respect of foreigners accommodated in such premises as may be specified: and the provisions of sub-section (2) shall apply to every person accommodated in any such premises."

7. *Insertion of new section 7A in Act XXXI of 1946.*—After section 7 of the said Act, the following section shall be inserted, namely:—

"7A: *Power to control places frequented by foreigners.*—(1) The prescribed authority may, subject to such conditions as may be prescribed, direct the owner or person having control of any premises used as a restaurant or as a place of public resort or entertainment or as a club and frequented by foreigners—

(a) to close such premises either entirely or during specified periods, or

(b) to use or permit the use of such premises only under such conditions as may be specified, or

(c) to refuse admission to such premises either to all foreigners or to any specified foreigner or class of foreigner.

(2) A person to whom any direction has been given under sub-section (1) shall not, while such direction remains in force, use or permit to be used any other premises for any of the aforesaid purposes, except with the previous permission in writing of the prescribed authority and in accordance with any conditions which that authority may think fit to impose.

(3) Any person to whom any direction has been given under sub-section (1) and who is aggrieved thereby may, within thirty days from the date of such direction, appeal to the Central Government; and the decision of the Central Government in the matter shall be final."

The Press (Special Powers) Act, 1947.

Received the assent of the Governor General on the 18th December 1947 and is published in the Gazette of India, Part IV, dated the 18th December 1947.

Act No. XXXIX of 1947.

An Act to continue certain special powers conferred on the administration in Chief Commissioner's Provinces for the better control of the dissemination of undesirable matter.

WHEREAS it is expedient to continue certain powers conferred on the administration in Chief Commissioners' Provinces for the better control of the dissemination of undesirable matter;

It is hereby enacted as follows :

1. *Short title and extent.*—(1) This Act may be called the Press (Special Powers) Act, 1947.

(2) It extends to all Chief Commissioners' Provinces.

(3) This Act shall cease to have effect after the 31st December, 1949.

2. *Interpretation.*—In this Act unless there is anything repugnant in the subject or context, "document" includes gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

3. *Delegation of powers.*—(1) The Provincial Government may by order direct that any power which is conferred on it by this Act shall in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by a District Magistrate or Additional District Magistrate.

(2) The powers of the Provincial Government under this Act shall be exercisable also by the Chief Commissioner.

4. *Power to control publications.*—The Provincial Government may by order in writing addressed to a printer, publisher or editor or generally to all printers, publishers or editors or to such class of printers, publishers or editors as may be specified therein—

(a) prohibit or regulate the printing or publication in any document or class of documents either absolutely or for a specified period, or in a particular issue or issues of a newspaper or periodical, of any matter which tends directly or indirectly to promote feelings of enmity or hatred between different classes of His Majesty's subjects;

(b) require that any document, or class of documents, or any matter relating to a particular subject or class of subjects, shall before publication be submitted for scrutiny to a specified officer, who may after such scrutiny, if he is satisfied that such document, class of document or matter or any portion thereof is or contains matter of the nature described in clause (a), either prohibit its publication or pass it for publication with such modifications as he may deem necessary.

5. *Control of documents printed outside the province.*—The Provincial Government may, by general or special order, prohibit or regulate the entry into, or sale or distribution or circulation or publication or possession within, the province of any document or class of documents, or of any matter of the nature described in clause (a) of section 4, printed or made outside the province.

6. *Forfeiture of books, newspapers or other documents.*—Where in its opinion any newspaper, book or other document, wherever made, contains any matter of the nature described in clause (a) of section 4, the Provincial Government may, by notification in the official Gazette, declare every copy of the issue of such newspaper, or of such book or other document to be forfeited to His Majesty, and thereupon any police officer may seize such copies wherever found, and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for such copies in any premises where any such copy may be or may be reasonably expected to be.

7. *Prevention of publication of unauthorised matter.*—Where the Provincial Government has reason to believe that a newspaper, book or other document is likely to be published, printed or made, containing matter of the nature described in clause (a) of section 4, it may, by order in writing, prohibit the printing or publication of such newspaper, book or document, or allow the publication, printing or making of the newspaper, book or document, subject to the publisher, printer, or editor, as the case may be, giving an undertaking in writing that he will not publish any such matter.

8. *Dissemination of prohibited documents or matter.*—(1) Whoever circulates or distributes in any manner any document or thing advocating or calculated to further any activity which tends directly or indirectly to promote feelings of enmity or hatred among different classes of His Majesty's subjects, or in respect of which an order of forfeiture under section 6 is in force shall, unless he proves that he was unaware of the nature of the document or thing, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Whoever allows his name or address to be used to facilitate transmission through the post or otherwise to any person other than the person for whom it purports to be intended of any document or thing of the nature referred to in sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) Whoever publishes, circulates or repeats in public any matter contained in any newspaper, book or other document in respect of which any order of forfeiture or prohibition has been made under this Act shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

9. *Powers in respect of contravention of orders.*—Where in the opinion of the Provincial Government any person has contravened an order under section 4, section 5 or section 7 or an undertaking given by him under section 7, the Provincial Government may, without prejudice to any other penalty to which such person may be liable, by order prohibit, either absolutely or for a specified period, the publication by him or on his behalf of any newspaper, periodical leaflet or other document, and may order the seizure of all copies of the publication in respect of which the contravention has occurred and of any printing-press or other instrument or apparatus used in the production of the publication; and the Provincial Government may by order declare forfeited to His Majesty any article so seized.

10. *Panalties.*—Whoever—

(a) contravenes any provision of this Act or of any order made thereunder or any direction or undertaking given or condition imposed under this Act, or

(b) interferes with or obstructs the compliance with such provision, order, direction, undertaking or condition by the person concerned, or

(c) obstructs the lawful exercise of any power conferred by or under this Act,

shall, if no express provision is made by this Act for the punishment of such contravention or interference or obstruction, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

11. *Attempt and abetment.*—Whoever attempts to commit, or abets, or attempts to abet, or does any act preparatory to the commission of, any offence punishable under this Act shall be deemed to have committed that offence.

12. *Search.*—(1) The power to issue search warrants conferred by section 98 of the Code of Criminal Procedure, 1898 (V of 1898), shall be deemed to include a power to issue warrants authorising—

(a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence punishable under this Act has been, is being or is about to be committed or that preparation for the commission of any such offence is being made;

(b) the seizure in or any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being or has been or is intended to be used for any purpose mentioned in that clause.

(2) Any police officer authorised by general or special order in writing of the District Magistrate or of the Superintendent of Police may search or cause to be searched any person to whom he has reason to believe or suspects to be in possession of or carrying any document or other thing the possession, circulation or distribution of which is punishable under this Act, and may seize and detain any such document or thing found on such person.

(3) The provisions of the said Code shall, so far as may be, apply to searches made, and to the disposal of any property seized, under this section.

13. *Offences to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V. of 1898), any offence punishable under this Act shall be cognizable.

14. *Jurisdiction barred.*—Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding or order purporting to be taken or made under this Act shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act.

15. *Effect of orders, etc., inconsistent with other laws.*—Any order made, and any other action taken, under this Act, shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any instrument having effect by virtue of any other law.

16. *Amendment of Act XXIII of 1931.*—In its application to the Chief Commissioners' Provinces, the Indian Press (Emergency Powers) Act, 1931, shall have effect as if in sub-section (1) of section 4 thereof, after clause (b), the following word and clause had been inserted, namely:—

“or

(bb) are calculated to instigate the commission of, or the publication of which constitutes, an offence punishable under the Press (Special Powers) Act, 1947.”

17. *Repeal of Ordinance X of 1947.*—The Press (Special Powers) (No. 2) Ordinance 1947, is hereby repealed.

The Foreign Exchange Regulation (Amendment) Act, 1947.

Received the assent of the Governor General on the 18th December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 18th December 1947.

Act No. XL of 1947.

An Act to amend the Foreign Exchange Regulation Act, 1947.

WHEREAS it is expedient to amend the Foreign Exchange Regulation Act, 1947 (VII of 1947), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1947.

2. *Amendment of section 8, Act VII of 1947.*—To sub-section (1) of section 8 of the Foreign Exchange Regulation Act, 1947, the following *Explanation* shall be added, and shall be deemed always to have been added, namely:—

Explanation.—The bringing or sending into any port or place in British India of any such article as aforesaid intended to be taken out of British India without being removed from the ship or conveyance in which it is being carried shall nonetheless be deemed to be a bringing, or as the case may be sending, into British India of that article for the purposes of this section.”

The Indian Merchant Shipping (Amendment) Act, 1947.

Received the assent of the Governor General on the 18th December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 18th December 1947.

Act No. XLI of 1947.

An Act further to amend the Indian Merchant Shipping Act, 1923.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923 (XXI of 1923), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Merchant Shipping (Amendment) Act, 1947.

2. *Insertion of new sections in Act XXI of 1923.*—After section 289 of the Indian Merchant Shipping Act, 1923, the following sections shall be inserted, namely:—

“289A. *Power to restrict transfer of ships.*—(1) No person shall transfer or acquire any ship registered in any port of registry in India, or any share or interest therein, without the previous approval of the Central Government.

(2) If any person contravenes any of the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) Any transaction effected in contravention of the provisions of sub-section (1) shall be void and unenforceable.

289B. *Power to restrict transfer of registry of ships.*—Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) no application made, whether before or after the coming into operation of this section, for the transfer of the registry of a ship from a port of registry in India to a port of registry outside India shall be granted except with the previous approval of the Central Government, and the Central Government may, if it considers necessary or expedient so to do for the purpose of conserving the strength of Indian registered merchant shipping, refuse to give its approval to any such transfer.

289C. *Power to exempt ships from provisions of this Act, and the Mer-*

chant Shipping Acts.—Notwithstanding anything contained in this Act or the Merchant Shipping Acts, the Central Government may, upon such conditions, if any, as it may think fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of, this Act or the Merchant Shipping Acts, or dispense with the observance of any such requirement, in the case of any ship if it is satisfied that that requirement has been substantially complied with or that compliance with the requirement is unnecessary in the circumstances of the case."

3. Repeal and saving.—(1) The Indian Merchant Shipping (Restriction of Registry) Ordinance, 1947 (XXVII of 1947), is hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act had commenced on the 31st day of October, 1947.

The Indian Finance (Supplementary) Act, 1947.

Received the assent of the Governor General on the 18th December 1947 and is published in the Gazette of India, Part IV, Extraordinary, dated the 18th December 1947.

Act No. XLII of 1947.

An Act to give effect to the supplementary financial proposals of the Central Government for the year ending on the 31st day of March, 1948.

WHEREAS it is expedient to impose an export duty on cotton cloth and yarn, and to amend the Cotton Textiles Fund Ordinance, 1944 (XXXIV of 1944);

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Finance (Supplementary) Act, 1947.

(2) It extends to all the provinces of India.

2. Addition to Second Schedule, Act XXXII of 1934.—In the Second Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), after Item No. 5, the following items shall be inserted:—

"6. Cloth of any description manufactured either wholly from cotton or partly from cotton and partly from any other substance and containing not less than ten per centum of cotton by weight.	Annas four per square yd.
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7. Yarn of any description manufactured either wholly from cotton or partly from cotton and partly from any other substance and containing not less than ten per centum of cotton by weight.	Annas six per lb."
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3. Amendment of Ordinance No. XXXIV of 1944.—For section 4 of the Cotton Textiles Fund Ordinance, 1944, the following section shall be substituted, namely:—

4. Government's contribution to the Fund.—The Central Government may from time to time make such contributions to the Fund as it thinks fit."

The United Nations (Security Council) Act, 1947.

Received the assent of the Governor General on the 20th December 1947 and is published in the Gazette of India, Part IV, dated the 20th December 1947.

Act No. XLIII of 1947.

An Act to enable effect to be given to certain provisions of the Charter of the United Nations.

WHEREAS it is expedient to enable effect to be given to certain provisions of the Charter of the United Nations;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the United Nations (Security Council) Act, 1947.

2. *Measures under Art 41 of the Charter of the United Nations.*—If, under Article 41 of the Charter of the United Nations signed at San Francisco on 26th day of June 1945 the Security Council of the United Nations calls upon the Central Government to apply any measures, not involving the use of armed force, to give effect to any decision of that Council, the Central Government may, by order published in the official Gazette, make such provisions (including provisions having extra-territorial operation) as appear to it necessary or expedient for enabling those measures to be effectively applied, and without prejudice to the generality of the foregoing power, provision may be made for the punishment of persons offending against the order.

The Income-tax and Business Profits Tax (Amendment) Act, 1947.

Received the assent of the Governor General on the 20th December 1947 and is published in the Gazette of India, Part IV, dated the 20th December 1947.

Act No. XLIV of 1947.

An Act further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922 (XI of 1922) and the Business Profits Tax Act, 1947 (XXI of 1947) for purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Income-tax and Business Profits Tax (Amendment) Act, 1947.

2. *Amendment of Act XI of 1922.*—(1) In the Indian Income-tax Act, 1922,—

(a) in clause (4A) of section 2, the words and brackets “(other than agricultural land)” shall be omitted, and to that clause the following shall be added, namely:—

“(iii) any land from which the income derived is agricultural income.”;

(b) for the last proviso to clause (6A) of section 2, the following proviso shall be substituted, namely:—

“provided further that the expression ‘accumulated profits’ wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946;”;

(c) in sub-section (3) of section 12B, after the words “property of the assessee” the words “by succession, inheritance or devolution or” shall be inserted.

(2) The amendments made by sub-section (1) shall have effect in relation to all assessments to income-tax or super-tax for the year ending on the 31st day of March 1948 and subsequent years.

3. Amendment of Act XXI of 1947.—(1) In the Business Profits Tax Act, 1947,—

(a) after the first proviso to section 5, the following further proviso shall be inserted, namely:—

“Provided further that where the profits of a part only of a business carried on by a person who is not resident in British India or not ordinarily so resident accrue or arise in British India or are deemed under the Indian Income-tax Act, 1922, so to accrue or arise, then, except where the business being the business of a person who is resident, but not ordinarily resident, in British India is controlled in India, this Act shall apply only to such part of the business, and such part shall for all the purposes of this Act be deemed to be a separate business.”;

(b) in sub-section (1) of section 11, after the words “the profits” the words “and taxable profits” shall be inserted;

(c) in section 19, after the words “provisions of this Act” the words “and with such modifications, if any, as may be prescribed” shall be inserted;

(d) in Schedule II, after rule 2, the following rule shall be inserted, namely:—

“2A. Notwithstanding anything contained in rule 2, where only a part of the profits of a company is chargeable under the provisions of this Act, its capital shall be the sum ascertained in accordance with the said rule diminished by an amount which bears to that sum the same proportion as the amount of its profits not so chargeable bears to its total profits.”

(2) The amendments made by sub-section (1) shall be deemed to have effect from the date on which the Business Profits Tax Act, 1947, came into force.

The Indian Trade Unions (Amendment) Act, 1947.

Received the assent of the Governor General on the 20th December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 20th December 1947.

Act No. XLV of 1947.

An Act further to amend the Indian Trade Unions Act, 1926.

WHEREAS it is expedient further to amend the Indian Trade Unions Act, 1926 (XVI of 1926), for the purposes hereinafter appearing;

It is hereby enacted follows:—

1. Short title and commencement—(1) This Act may be called the Indian Trade Unions (Amendment) Act, 1947.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Amendment of long title and preamble, Act XVI of 1926.—In the long title and preamble of the Indian Trade Unions Act, 1926 (hereinafter referred to as the said Act),—

(a) after the word “registration” the words “and recognition” shall be inserted;

(b) for the word “registered Trade Unions in British India” the words “registered and recognised Trade Unions and to certain unfair practices in industrial or trade employment” shall be substituted.

3. Amendment of section 2, Act XVI of 1926.—In section 2 of the said Act,—

(a) clauses (b) to (h) shall be relettered as clauses (f), (g), (i), (j), (k), (m) and (n), respectively;

(b) for the opening paragraph and clause (a), the following shall be substituted, namely:—

“In this Act, unless there is anything repugnant in the subject or context,

(n) 'appropriate Government' means, in relation to Trade Unions whose objects are not confined to one Province, the Central Government; and in relation to other Trade Unions, but subject to the provisions of section 28A, the Provincial Government;

(b) 'employer' means,—

(i) in relation to an industry carried on by or under the authority of any department of the Central Government or a Provincial Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority, and includes an association of employers;

(c) 'executive' means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(d) 'industry' means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen;

(e) 'Labour Court' means, in relation to a Trade Union, a Labour Court appointed by the appropriate Government under sub-section (1) of section 28B;

(c) after clause (g) as relettered by this section, the following clause shall be inserted, namely:—

'(h) "recognised Trade Union" means a Trade Union recognised under this Act';

(d) after clause (k) as relettered by this section, the following clause shall be inserted, namely:—

(l) "Strike" has the meaning assigned to it in the Industrial Disputes Act, 1947 (XIV of 1947), "illegal strike" means a strike which by virtue of any law for the time being in force is illegal, and "irregular strike" means an illegal strike or a strike declared by a Trade Union in contravention of its rules referred to in clause (d) of section 28D."

4. *Insertion of new Chapters IIIA and IIIB in Act XVI of 1926.*—After Chapter III of the said Act the following Chapters shall be inserted, namely:—

"Chapter IIIA •

Recognition of Trade Unions

28A. *Modification of the definition of "appropriate Government" for certain purposes.*—Notwithstanding anything to the contrary in the definition of "the appropriate Government" in section 2, the Central Government shall be deemed to be the appropriate Government for the purposes of this Chapter in respect of Trade Unions consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield.

Explanation.—In this section and for the purposes of this Chapter, a Trade Union of which not less than fifty per cent of the members are workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield shall be deemed to be a Trade Union consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield as the case may be. •

28B. *Appointment, constitution, powers and procedure of Labour Courts.*—(1) For the purposes of this Chapter, the appropriate Government shall appoint such number of Labour Courts as it considers necessary, consisting of one or more persons each of whom—

(a) is, or has been, a Judge of a High Court or a District Judge, or

(b) is qualified for appointment as a Judge of a High Court:

Provided that the appointment to a Labour Court of any person not qualified under clause (a) shall be made in consultation with the High Court

of the Province in which the Labour Court has or is intended to have, its usual place of sitting.

(2) Every Labour Court shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

(3) The proceedings of Labour Courts shall be regulated and conducted in such manner as may be prescribed.

28C. Recognition by agreement.—(1) Where an employer agrees to recognize a "Trade Union, a memorandum of agreement signed by the employer and the officers of the Trade Union, or their authorised representatives, may be presented to the Registrar who shall record the memorandum in a register in the prescribed manner.

(2) Such an agreement may be revoked by either party thereto on application made to the Registrar in the prescribed manner.

(3) While such an agreement is in force, the Trade Union shall, in its relations with the employer with whom the agreement is made, have all the rights of a recognized Trade Union under this Act, and shall for all other purposes be deemed to be a recognized Trade Union.

28D. Conditions for recognition by order of a Labour Court.—A Trade Union shall not be entitled to recognition by order of a Labour Court under section 28E unless it fulfils the following conditions, namely:—

(a) that all its ordinary members are workmen employed in the same industry or in industries closely allied to or connected with one another;

(b) that it is representative of all the workmen employed by the employer in that industry or those industries;

(c) that its rules do not provide for the exclusion from membership of any class of the workmen referred to in clause (b);

(d) that its rules provide for the procedure for declaring a strike;

(e) that its rules provide that a meeting of its executive shall be held at least once in every six months;

(f) that it is a registered Trade Union, and that it has complied with all the provisions of this Act;

Provided that the reference in clause (b) to "the employer" shall as respects recognition by an association of employers, be construed as a reference to all the employers who are members of the association.

28E. Application to, and grant of recognition by, Labour Courts.—(1) Where a registered Trade Union having applied for recognition to an employer has failed to obtain recognition within a period of three months from the date of making such application, it may apply in writing, setting out such particulars as may be prescribed, to the Labour Court for recognition by that employer.

(2) A single application may be made under sub-section (1) for recognition---

(a) by more than one employer, or

(b) by an association of employers as well as one or more members thereof.

(3) The Labour Court may call for further information for the purpose of ascertaining whether the Trade Union is entitled to recognition by the employer under this section, and if the Trade Union fails to supply the required information within the time granted, the Labour Court may dismiss the application.

(4) The Labour Court shall, after serving notice in the prescribed manner on the employer, investigate whether the Trade Union fulfils the conditions for recognition set out in section 28D, and in deciding whether the condition set out in clause (b) thereof is fulfilled, the Labour Court shall

have regard to, but shall not be bound by the fact whether the proportion which the number of the workmen referred to in the said clause who are members of the Trade Union and are not in arrears of their subscription for any period exceeding three months, bears to the total number of such workmen is less, or not less, than such percentage, if any, as may be prescribed in this behalf, either generally, or in respect of any particular locality or any particular employer or class of employers, or any particular industry or class of industries.

(5) If the Labour Court is satisfied that the Trade Union is fit to be recognized by the employer, it shall make an order directing such recognition and may, where the recognition is to be by an association of employers, further direct, by the same or a subsequent order, recognition by every member of the association in relation to whom the Trade Union fulfils the condition set in clause (b) of section 28D.

(6) Every order made under sub-section (5) shall be forwarded to the appropriate Government which shall notify it in the official Gazette, and while a recognition directed by such order is in force the Trade Union shall, in its relations with the employer concerned, have all the rights of a recognized Trade Union under this Act and shall for all other purposes be deemed to be a recognized Trade Union.

28F. Rights of recognized Trade Unions.—(1) The executive of a recognized Trade Union shall be entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

(2) Nothing in sub-section (1) shall be construed as requiring an employer to send replies to letters on, or grant interviews regarding matters on which, as a result of previous discussion with the executive of the Trade Union, the employer has arrived at a conclusion, whether in agreement with the executive or not, unless a period of at least three months has elapsed since the said conclusion was intimated to the executive, or unless there has been a change in circumstances.

(3) Any dispute between the employer and the executive of a recognized Trade Union as to whether a conclusion has been arrived at, or whether there has been a change in circumstances, within the meaning of sub-section (2), shall be referred to the Registrar whose decision shall be final.

(4) The executive of a recognised Trade Union shall be entitled to display notices of the Trade Union in any premises where its members are employed, and the employer shall afford the executive reasonable facilities for that purpose.

28G. Withdrawal of recognition.—(1) Where the recognition of a Trade Union has been directed under section 28E, the Registrar or the employer may apply in writing to the Labour Court for withdrawal of the recognition on any of the following grounds, namely:—

(a) that the executive or the members of the Trade Union have committed any unfair practice set out in section 28J within three months prior to the date of the application;

(b) that the Trade Union has failed to submit any return referred to in section 28I;

(c) that the Trade Union has ceased to be representative of the workmen referred to in clause (b) of section 28D.

(2) On receipt of an application under sub-section (1) the Labour Court shall, unless it thinks fit to dismiss the application summarily, serve notice in the prescribed manner on the Trade Union to show cause why its recognition should not be withdrawn.

(3) If after giving a reasonable opportunity to the Trade Union to show

cause the Labour Court is satisfied that the Trade Union is no longer fit to be recognized, it shall make an order declaring that the recognition of the Trade Union has been withdrawn, and forward a copy of the order to the appropriate Government which shall notify it in the official Gazette.

28H. Application for fresh recognition.—On the expiry of not less than six months from the date of withdrawal of recognition of a Trade Union under sub-section (3) of section 28G, the Trade Union, if it continues to be a registered Trade Union, may again apply for recognition, and the procedure laid down in this Act shall apply in respect of such application as if it were an original application for recognition.

28I. Recognized Trade Unions to submit prescribed returns.—Every Trade Union recognized under section 28E shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, in addition to those referred to in section 28, as may be prescribed.

CHAPTER IIIB

Unfair practices.

28J. Unfair practices by recognized Trade Unions.—The following shall be deemed to be unfair practices on the part of a recognized Trade Union, namely:—

- (a) for a majority of the members of the Trade Union to take part in an irregular strike;
- (b) for the executive of the Trade Union to advise or actively to support or to instigate an irregular strike;
- (c) for an officer of the Trade Union to submit any return required by or under this act containing false statements.

28K. Unfair practices by employers.—The following shall be deemed to be unfair practices on the part of an employer, namely:—

- (a) to interfere with, restrain, or coerce his workmen in the exercise of their rights to organise, form, join or assist a Trade Union and to engage in concerted activities for the purpose of mutual aid or protection;
- (b) to interfere with the formation or administration of any Trade Union or to contribute financial or other support to it;
- (c) to discharge, or otherwise discriminate against, any officer of a recognized Trade Union because of his being such officer;
- (d) to discharge or otherwise discriminate against any workman because he has made allegations or given evidence in an inquiry or proceeding relating to any matter such as is referred to in sub-section (1) of section 28F.
- (e) to fail to comply with the provisions of section 28F:

Provided that the refusal of an employer to permit his workmen to engage in Trade Union activities during their hours of work shall not be deemed to be an unfair practice on his part.

5. Amendment of section 29, Act XVI of 1946.—(1) To sub-section (1) of section 29 of the said Act the following proviso shall be added, namely:—

“Provided that the making of regulations under this section for the purpose of carrying into effect the provisions of Chapter IIIA shall be deemed to be a purpose of that Chapter within the meaning of section 28A”.

(2) To the said section 29 the following sub-section shall be added, namely:—

“(3) The Central Government may give directions to a Provincial Government as to the regulations to be made under this section for prescribing the percentages referred clear to in sub-section (4) of section 28E”.

6. Amendment of section 31, Act XVI of 1926.—In section 31 of the said Act,—

- (a) in sub-section (1),—

(i) after the word "registered" the words "or recognized" shall be inserted;

(ii) for the word "statement" the words "statement, return" shall be substituted;

(b) in sub-clause (2), after the words "that section" the words and figures "or in or from any return referred to in section 28I" shall be inserted.

7. *Insertion of new section 32A in Act XVI of 1926.*—After section 32 of the said Act the following section shall be inserted, namely:—

"32A. *Penalty for unfair practices.*—(1) Any employer who commits any unfair practice set out in section 28K shall be punishable with fine which may extend to one thousand rupees.

(2) Where a Criminal Court imposes a fine, or confirms in appeal, revision or otherwise a sentence of fine imposed, on an employer for committing an unfair practice set out in clause (c) or clause (d) of section 28K, it may, when passing judgment, order the whole or any part of the fine to be applied in the payment to any person of compensation for loss or injury caused by the unfair practice".

The United Nations (Privileges and Immunities) Act, 1947.

Received the assent of the Governor General on the 20th December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 20th December 1947.

Act No. XLVI of 1947.

An Act to give effect to the Convention on the Privileges and Immunities of the United Nations.

WHEREAS it is expedient to give effect to the Convention on the Privileges and Immunities of the United Nations, and to enable similar privileges and immunities to be enjoyed by other international organisations and their representatives and officials,

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the United Nations (Privileges and Immunities) Act, 1947.

2. *Conferment on United Nations and its representatives and officers of certain privileges and immunities.*—(1) Notwithstanding anything to the contrary contained in any other law, the provisions set out in the Schedule to this Act of the Convention on the Privileges and Immunities, adopted by the General Assembly of the United Nations on the 13th day of February 1946, shall have the force of law in India.

(2) The Central Government may, from time to time, by notification in the official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

3. *Power to confer certain privileges and immunities on other international organisations and their representatives and officers.*—Where in pursuance of any international agreement, convention or other instrument it is necessary to accord to any international organisation and its representatives and officers privileges and immunities in India similar to those contained in the provisions set out in the Schedule, the Central Government may, by notification in the official Gazette, declare that the provisions set out in the Schedule shall, subject to such modifications, if any, as it may consider necessary or expedient for giving effect to the said agreement, convention or other instrument, apply *mutatis mutandis* to the international organisation specified in the notification and its representatives and officers, and thereupon the said provisions shall apply accordingly and, notwithstanding anything to the contrary contained in any other law, shall in such application have the force of law in India.

4. *Power to make rules.*—The Central Government may make rules for carrying out the purposes of this Act.

THE SCHEDULE

(See sections 2 and 3)

ARTICLE I.

JURIDICAL PERSONALITY

SECTION 1. The United Nations shall possess juridical personality.

It shall have the capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to institute legal proceedings.

ARTICLE II

PROPERTY, FUNDS AND ASSETS.

SECTION 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

SECTION 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

SECTION 4. The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

SECTION 5. Without being restricted by financial controls, regulations or moratoria of any kind.

(a) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

SECTION 6. In exercising its rights under Section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member in so far as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

SECTION 7. The United Nations, its assets, income and other property shall be:

(a) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;

(c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

SECTION 8. While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations in making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III.

FACILITIES IN RESPECT OF COMMUNICATIONS.

SECTION 9. The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

SECTION 10. The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

THE REPRESENTATIVES OF MEMBERS.

SECTION 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;

(b) inviolability for all papers and documents;

(c) the right to use codes and to receive papers or correspondence by courier or in sealed bags,

(d) exemption in respect of themselves and their spouses from immigration restrictions, aliens registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;

(e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys; and also

(g) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

SECTION 12. In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

SECTION 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a state for the discharge of their duties shall not be considered as periods of residence.

SECTION 14. Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individual themselves, but in order to safeguard the independent exercise of their functions in

connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

SECTION 15. The provisions of Sections 11, 12 and 13 are not applicable as between a representative and the authorities of the state of which he is a national or of which he is or has been the representative.

SECTION 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

OFFICIALS

SECTION 17. The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

SECTION 18. Officials of the United Nations shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

SECTION 19. In addition to the immunities and privileges specified in Section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

SECTION 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

SECTION 21. The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of Justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VI

EXPERTS ON MISSIONS FOR THE UNITED NATIONS.

SECTION 22. Experts (other than officials coming within the scope of

Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;
- (c) inviolability for all papers and documents;
- (d) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) the same facilities in respect of currency or exchange restrictions, as are accorded to representatives of foreign governments on temporary official mission;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

SECTION 23. Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

ARTICLE VII.

UNITED NATIONS LAISSEZ-PASSER

SECTION 24. The United Nations may issue United Nations laissez-passers to its officials. These laissez-passers shall be recognised and accepted as valid travel documents by the authorities of Members, taking into account the provisions of Section 25.

SECTION 25. Applications for visas (where required) from the holders of United Nations laissez-passers, when accompanied by a certificate that they are travelling on the business of United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

SECTION 26. Similar facilities to those specified in section 25 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passers, have a certificate that they are travelling on the business of the United Nations.

SECTION 27. The Secretary-General, Assistant Secretaries-General and Directors travelling on United Nations laissez-passers on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

SECTION 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII

SETTLEMENT OF DISPUTES

SECTION 29. The United Nations shall make provisions for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party;

(b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

SECTION 30. All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties.

The Extra-Provincial Jurisdiction Act, 1947.

Received the assent of the Governor General on the 24th December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 24th December, 1947.

Act No. XLVII of 1947.

An Act to provide for the exercise of certain extra-provincial jurisdiction of the Central Government.

WHEREAS by treaty, agreement, grant, usage, sufferance and other lawful means, the Central Government has, and may hereafter acquire, jurisdiction in and in relation to areas outside the provinces of India;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Extra-Provincial Jurisdiction Act, 1947.

2. *Definitions.*—In this Act,—

(a) “extra-provincial jurisdiction” means any jurisdiction which by treaty, agreement, grant, usage, sufferance or other lawful means the Central Government has for the time being in or in relation to any area outside the Provinces;

(b) “jurisdiction” includes rights, power and authority.

3. *Exercise of jurisdiction.*—(1) It shall be lawful for the Central Government to exercise extra-provincial jurisdiction in such manner as it thinks fit.

(2) The Central Government may delegate any such jurisdiction as aforesaid to any officer or authority in such manner and to such extent as it thinks fit.

4. *Power to make orders.*—(1) The Central Government may, by notification in the official Gazette, make such orders as may seem to it expedient for the effective exercise of any extra-provincial jurisdiction of the Central Government.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), any order made under that sub-section may provide—

(a) for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force in any Province or otherwise;

(b) for determining the persons who are to exercise jurisdiction, either generally or in particular cases or classes of cases, and the powers to be exercised by them;

(c) for determining the courts, judges, magistrates and authorities by whom, and for regulating the manner in which, any jurisdiction auxiliary or incidental to or consequential on the jurisdiction exercised under this Act is to be exercised within any Province; and

(d) for regulating the amount, collection and application of fees.

5. *Validity of Acts done in pursuance of jurisdiction.*—Every act and thing done, whether before or after the commencement of this Act, in pursu-

ance of any extra-provincial jurisdiction of the Central Government in an area outside the Provinces shall be as valid as if it had been done according to the local law then in force in that area.

6. *Evidence as to existence or extent of jurisdiction.*—(1) If in any proceeding, civil or criminal, in a Court established in the Provinces or by the authority of the Central Government outside the Provinces, any question arises as to the existence or extent of any extra-provincial jurisdiction of the Central Government, the Secretary to the Government of India in the appropriate department shall, on the application of the Court, send to the Court the decision of the Central Government on the question, and that decision shall for the purposes of the proceeding be final.

(2) The Court shall send to the said Secretary, in a document under the seal of the Court or signed by a judge of the Court, questions framed so as properly to raise the question, and sufficient answers to those questions shall be returned to the Court by the Secretary and those answers shall on production thereof be conclusive evidence of the matters therein contained.

7. *Repeal and saving.*—(1) The Extra-Provincial Jurisdiction Ordinance, 1947 (XV of 1947) is hereby repealed.

(2) Any order made, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 27th day of August, 1947.

The Indian Nursing Council Act, 1947.

Received the assent of the Governor General on the 31st December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 31st December 1947.

Act No. XLVIII of 1947.

An Act to constitute an Indian Nursing Council.

WHEREAS it is expedient to constitute an Indian Nursing Council in order to establish a uniform standard of training for nurses, midwives and health visitors.

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Indian Nursing Council Act, 1947.

(2) It extends to all the Provinces of India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “the Council” means the Indian Council of Nursing constituted under this Act;

(b) “prescribed” means prescribed by regulations made under section 16;

(c) “Provincial Council” means a Council (by whatever name called) constituted under the law of a Province to regulate the registration of nurses, midwives or health visitors in the Province;

(d) “Provincial register” means a register of nurses, midwives or health visitors maintained under the law of a Province.

3. *Constitution and composition of the Council.*—(1) The Central Government shall as soon as may be constitute a Council consisting of the following members; namely:—

(a) one nurse enrolled in a Provincial register elected by each Provincial Council;

(b) one member elected from among themselves by the heads of institutions in which training is given in nursing administration to nurses

enrolled in a Provincial register ;

(c) one member elected from among themselves by the heads of institutions in which health visitors are trained ;

(d) one member elected by the Medical Council of India ;

(e) one member elected by the Central Council of the Indian Medical Association ;

(f) one member elected by the Council of the Trained Nurses Association of India ;

(g) one midwife enrolled in a Provincial register, elected by each Provincial Council in rotation in the following order, namely :—

(i) Bombay, West Bengal, and East Punjab

(ii) Madras, the United Provinces, and Orissa

(iii) the Central Provinces and Berar, Bihar and Assam ;

(h) the Director General of Health Services, *ex-officio* ;

(i) the Chief Principal Matron, Medical Directorate, General Headquarters, *ex-officio* ;

(j) the Chief Nursing Superintendent, office of the Director General Health Services, *ex-officio* ;

(k) the Director of Maternity and Child Welfare, Indian Red Cross Society *ex-officio* ;

(l) the Chief Administrative Medical officer of each Governor's Province or if the Provincial Government in any case so directs, the Superintendent of Nursing (by whatever name called) in the office of the Chief Administrative Medical Officer of the Province, *ex-officio* ;

(m) four Provincial Directors of Public Health, *ex-officio*, in rotation in the following order, namely :—

(i) Madras, the United Provinces, the Central Provinces and Berar, and Bihar,

(ii) Bombay, West Bengal, East Punjab, and Assam ;

(n) four members nominated by the Central Government, of whom at least two shall be nurses, midwives or health visitors enrolled in a Provincial register, and one shall be an experienced educationalist ;

(o) two members elected by the Central Legislature.

(2) The President of the Council shall be elected by the members of the Council from among themselves :

Provided that for five years from the first constitution of the Council the President shall be a person nominated from amongst the members of the Council by the Central Government, who shall hold office during the pleasure of the Central Government.

(3) No act done by the Council shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Council.

4. *Incorporation of the Council.*—The Council constituted under section 3 shall be a body corporate by the name of the Indian Nursing Council, having perpetual succession and a common seal, with power to acquire property both movable and immovable, and shall by the said name sue and be sued.

5. *Mode of elections.*—(1) Elections under sub-section (1) of section 3 by Provincial Councils shall be conducted in accordance with rules made in this behalf by the respective Provincial Governments, and where any dispute arises regarding any such election it shall be referred to the Provincial Government concerned whose decision shall be final.

(2) Other elections under that sub-section shall be conducted in the prescribed manner, and where any dispute arises regarding any such election it shall be referred to the Central Government whose decision shall be final.

6. *Term of office and casual vacancies.*—(1) Subject to the provisions of this section, an elected or nominated member, other than a nominated

President, shall hold office for a term of five years from the date of his election or nomination or until his successor has been duly elected or nominated, whichever is longer.

(2) An elected or nominated member may at any time resign his membership by writing under his hand addressed to President, and the seat of such member shall thereupon become vacant.

(3) An elected or nominated member shall be deemed to have vacated his seat if he is absent without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council where the interval between the first and third of the said meetings exceeds six months.

(4) A casual vacancy in the Council shall be filled by fresh election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(5) Members of the Council shall be eligible for re-election or re-nomination.

(6) Members of the Council being Provincial Directors of Public Health should be deemed to be nominated members for the purposes of this section.

7. *Meetings.*—(1) The Council shall hold its first meeting at such time and place as may be appointed by the President, and thereafter the Council shall meet at such time and place as may be appointed by the Council.

(2) Until otherwise prescribed, ten members of the Council shall form a quorum and all the acts of the Council shall be decided by a majority of the members present and voting.

8. *Officers, committees and servants of the Council.*—(1) The Secretary of the Council (who may also, if it is deemed expedient by the Council, act as Treasurer) shall, for three years from the first constitution of the Council, be a person appointed by the Central Government and shall hold office during the pleasure of the Central Government.

(2) The Council shall—

(a) elect from among its members a Vice-President;

(b) constitute from among its members an Executive Committee and such other committees for general or special purposes as the Council deems necessary to carry out the purposes of this Act;

(c) subject to the provisions of sub-section (1), appoint a Secretary, who may also, if deemed expedient, act as Treasurer;

(d) appoint or nominate such other officers and servants as the Council deems necessary to carry out the purposes of this Act;

(e) require and take from the Secretary, or from any other officer or servant, such security for the due performance of his duties as the Council deems necessary;

(f) with the previous sanction of the Central Government, fix the fee and allowances to be paid to the President, Vice-President and members and the pay and allowances of officers and servants of the Council.

9. *The Executive Committee.*—(1) The Executive Committee shall consist of nine members, of whom seven shall be elected by the Council from among its members.

(2) The President and Vice-President of the Council shall be members *ex-officio* of the Executive Committee, and shall be President and Vice-President, respectively, of that Committee.

(3) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any regulations which may be made in this behalf.

10. *Recognition of qualifications.*—(1) For the purposes of this Act, the qualifications included in the Schedule shall be recognised qualifications,

and the qualifications included in Part II of the Schedule shall be recognised higher qualifications.

(2) Any authority within the Provinces of India which, being recognised by the Provincial Government for the purpose of granting any qualification, grants a qualification in general nursing, midwifery, health visiting or public health nursing, not included in the Schedule may apply to the Council to have such qualification recognised, and the Council may declare that such qualification, or such qualification only when granted after a specified date, shall be a recognised qualification for the purposes of this Act.

(3) The Council may enter into negotiations with any authority in any State or country outside the Provinces of India which by the law of such State or country is entrusted with the maintenance of a register of nurses, midwives or health visitors, for the settling of a scheme of reciprocity for the recognition of qualifications, and in pursuance of any such scheme the Council may declare that a qualification granted by any authority in any such State or country, or such qualification only when granted after a specified date, shall be a recognised qualification for the purposes of this Act:

Provided that no declaration shall be made under this sub-section in respect of any qualification unless by the law and practice of the State or country in which the qualification is granted persons domiciled or originating in any Province of India and holding qualifications recognised under this Act are permitted to enter and practise the nursing profession in that State or country:

Provided further that—

(i) any reciprocal arrangements subsisting at the date of the commencement of this Act between a Provincial Council and any authority outside India for the recognition of qualifications shall, unless the Council decides otherwise, continue in force, and

(ii) any qualification granted by an authority in any Indian State and recognised on the said date by a Provincial Council shall continue to be a recognised qualification for the purpose of registration in the Province on the expiry of three years from the said date, or until a scheme of reciprocity is concluded by the Council under this sub-section with the authority concerned, whichever is earlier.

(4) The provisions of sub-sections (2) and (3) and of sections 14 and 15 shall apply *mutatis mutandis* to the declaration by the Council of a qualification granted in respect of post-certificate nursing training as a recognised higher qualification.

11. *Effect of recognition.*—Notwithstanding anything contained in any other law,—

(a) any recognised qualification shall be a sufficient qualification for enrolment in any Provincial register;

(b) no person shall, after the date of the commencement of this Act, be entitled to be enrolled in any Provincial register as a nurse, midwife, health visitor, or public health nurse unless he or she holds a recognised qualification:

Provided that any person already enrolled in any Provincial register before the said date may continue to be so enrolled notwithstanding that he or she may not hold a recognised qualification:

Provided further that any person who was immediately before the said date entitled to be enrolled in any Provincial register but was not so enrolled shall, on application made in this behalf before the expiry of two years from the said date be entitled to be enrolled in that register;

(c) any person holding a recognised higher qualification shall be entitled to have the qualification entered as a supplementary qualification in any Provincial register in which he or she is enrolled, and after the said date no

person shall be entitled to have entered as a supplementary qualification in any Provincial register any qualification which is not a recognised higher qualification.

12. Power to require information as to courses of study and training and examinations.—Every authority in any Province of India which grants a recognised qualification or a recognised higher qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and training and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualifications conferred, and generally as to the requisites for obtaining such qualification.

13. Inspections.—(1) The Executive Committee may appoint such number of inspectors as it deems necessary to inspect any institution recognised as a training institution, and to attend examinations held for the purpose of granting any recognised qualification or recognised higher qualification.

(2) Inspectors appointed under this section shall report to the Executive Committee on the suitability of the institution for the purposes of training and on the adequacy of the training therein, or as the case may be, on the sufficiency of the examinations.

(3) The Executive Committee shall forward a copy of such report to the authority or institution concerned, and shall also forward copies, with the remarks, if any, of the authority or institution concerned thereon, to the Central Government and to the Provincial Government and Provincial Council of the Province in which the authority or institution is situated.

14. Withdrawal of recognition.—(1) When, upon report by the Executive Committee, it appears to the Council—

(a) that the sources of study and training and the examinations to be gone through in order to obtain a recognised qualification from any authority in any Province of India; or the conditions for admission to such courses or the standards of proficiency required from the candidates at such examinations are not in conformity with the regulations made under this Act or fall short of the standards required thereby, or

(b) that an institution recognised by a Provincial Council for the training of nurses, midwives or health visitors does not satisfy the requirements of the Council,—

the Council may send to the Government of the Province in which the authority or institution, as the case may be, is situated a statement to such effect and the Provincial Government shall forward it, along with such remarks as it may think fit to the authority or institution concerned and, in a case referred to in clause (b) to the Provincial Council also, with an intimation of the period within which the authority or institution may submit its explanation to the Provincial Government.

(2) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of the period, the Provincial Government shall make its recommendations to the Council.

(3) The Council, after such further inquiry, if any, as it may think fit to make, and in a case referred to in clause (b) of sub-section (1), after considering any remarks which the Provincial Council may have addressed to it, may declare,—

(a) in a case referred to in clause (a) of that sub-section; that the qualifications granted by the authority concerned shall be recognised qualifications only when granted before a specified date, or

(b) in a case referred to in the said clause (b), that with effect from a date specified in the declaration any person holding a recognised qualification whose period of training and study preparatory to the grant to him of the qualification was passed at the institution concerned shall be entitled to be registered only in the Province in which the institution is situated.

(4) The Council may declare that any recognised qualification granted outside the Provinces of India shall be a recognised qualification only if granted before a specified date.

15. *Mode of declarations.*—All declarations under section 10 or section 14 shall be made by resolution passed at a meeting of the Council called for the purpose, and shall forthwith be published in the official Gazette.

16. *Power to make regulations.*—(1) The Council may make regulations not inconsistent with this Act generally to carry out the provisions of this Act, and in particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the management of the property of the Council and the maintenance and audit of its accounts ;

(b) the manner in which elections referred to in sub-section (2) of section 5 and in clause (a) of sub-section (2) of section 8 shall be conducted ;

(c) the summoning and holding of the meetings of the Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum ;

(d) prescribing the functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum ;

(e) prescribing the powers and duties of the President and the Vice-President ;

(f) prescribing the tenure of office and the powers and duties of the Secretary, inspectors, visitors and other officers and servants of the Council ;

(g) prescribing the standard curricula for the training of nurses, midwives and health visitors, for training courses for teachers of nurses, midwives and health visitors, and for training in nursing administration ;

(h) prescribing the conditions for admission to courses of training as aforesaid ;

(i) prescribing the standards of examination and other requirements to be satisfied to secure for qualifications recognition under this Act ;

(j) any other matter which is to be or may be prescribed under this Act.

(2) To enable the Council to be first constituted, the President may, with the previous sanction of the Central Government, make regulations for the conduct of the elections referred to in sub-section (2) of section 5, and any regulations so made may be altered or rescinded by the Council in exercise of its powers under this section.

17. *Repeal of Ordinance XIII of 1947.*—(1) The Central Nursing Council Ordinance, 1947, is hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall, so far as it is not inconsistent with this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act had commenced on the 13th day of August, 1947.

THE SCHEDULE

(See sections 10 and 11.)

PART I

Recognised qualifications.

A—General Nursing—

• Certificates (including senior and junior certificates) and Diplomas in Nursing issued by any of the following authorities, namely :—

1. The Examination Board appointed by the Government of Madras.

2. The Bombay Nurses, Midwives and Health Visitors Council.

3. The Bombay Presidency Nursing Association (when issued before the 1st day of January, 1936).
4. The Bengal Nursing Council.
5. The United Provinces State Medical Faculty.
6. The United Provinces Nurses and Midwives Council.
7. The State Board of Medical Examinations, United Provinces.
8. The Punjab Nurses Registration Council.
9. The Bihar Medical Examination Board.
10. The Bihar Nurses Registration Council.
11. The Central Provinces Medical Examination Board.
12. The Assam Nurses, Midwives and Health Visitors Council.
13. The Orissa Medical Examination Board.
14. The Mid-India United Board of Examiners for Nurses.
15. The Joint Missionary Board for Examination of Nurses (Marathi area).
16. The North India United Board of Examiners for Mission and other Hospitals.
17. The Examining Board of the Nurses Auxiliary of the Christian Medical Association of India (South India Branch).

B—Midwifery—

Certificates or Diplomas in Midwifery issued by any of the following authorities, namely :—

1. Any of the authorities mentioned in section A except item No. 17 thereof.
2. The Punjab Central Midwives Board.
3. The Mid-India United Board of Examiners for Midwifery.
4. The National Association for supplying female medical aid to the Women of India.

C—Health Visitors—

Health Visitors Certificates or Diplomas issued by any of the following authorities, namely :—

1. The Government Training School for Health Visitors, Madras.
2. The Sir John Anderson Health School, Calcutta.
3. The United Provinces State Medical Faculty.
4. The United Provinces Nurses and Midwives Council.
5. The Government Health School, Nagpur.
6. The Assam Nurses, Midwives and Health Visitors Council.
7. The Lady Reading Health School, Delhi.
8. The Bombay Nurses, Midwives and Health Visitors Council.
9. The Bengal Nursing Council.

PART II.

Recognised higher qualifications.

Certificates or Diplomas in respect of post-certificate nursing training issued by the following authorities, namely :—

1. The Examination Board appointed by the Government of Madras.
2. The College of Nursing, Delhi.
3. The Bombay Nurses, Midwives and Health Visitors Council.
4. The Missionary Medical College School of Nursing Vellore.

The Delhi Premises (Requisition and Eviction) Act, 1947.

Received the assent of the Governor General on the 31st December, 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 31st December 1947.

Act No. XLIX of 1947.

An Act to confer certain powers in respect of premises in the province of Delhi.

WHEREAS by reason of the shortage of accommodation in the Province of Delhi an emergency has arisen which makes it necessary to confer

powers to requisition premises and to evict from Government premises persons continuing without authority to occupy those premises ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Premises (Requisition and Eviction) Act, 1947.

(2) It extends to the Notified area of the Civil Station (Delhi), to New Delhi and to Karolbagh area. The Central Government may by notification in the official Gazette extend this Act to such other area or areas in the Province of Delhi as may be specified therein.

(3) It shall come into force at once.

(4) It shall remain in force till the 31st day of December, 1949, but the Central Government may by notification in the official Gazette extend it for a further period of one year.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “compensation” includes—

(i) rent payable in respect of the premises requisitioned under this Act,

(ii) damages for any injury to the premises,

(iii) expenses on account of vacating or re-occupying the premises consequent on requisition and de-requisition,

(iv) pecuniary loss due to requisitioning ;

(b) “competent authority” means the Estate Officer to the Government of India, and includes any other person authorised by the Central Government by notification in the official Gazette to perform all or any of the functions of a competent authority under this Act :

Provided that in respect of any function performable after the making of an order under sub-section (1) of section 3 or sub-section (1) of section 8, references to the competent authority shall be construed as references to the competent authority making that order ;

(c) “landlord” has the meaning assigned to it in the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947) ;

(d) “premises” means any building or part of a building and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building, and

(iii) any fittings affixed to such building or part of a building for more beneficial enjoyment thereof ;

(e) “public purpose” means any purpose which is so declared by rules made under this Act

(f) “tenant” means any person by whom or on whose account rent is payable for any premises and includes every person for the time being deriving title under a tenant and also every person remaining in possession of the premises leased to him after the termination of the lease.

8. *Power to Requisition.*—(1) Whenever it appears to the competent authority that any premises is needed or is likely to be needed for any public purpose it shall be lawful for him or for any other person, either generally or specially authorized by such authority in this behalf, after due notice to enter upon and inspect such premises for the purpose of determining whether and if so, in what manner an order under this section shall be made in relation to such premises or with a view to securing compliance with any order made under this Act.

(2) The competent authority, with a view to requisition any premises under this sub-section, may by an order—

(a) require any person to furnish to such authority as may be specified

in the order such information in his possession relating to the premises as may be so specified ;

(b) direct that the landlord, occupier or person in possession of the premises shall not without the permission of the competent authority dispose of or structurally alter the premises.

(3) Where the competent authority decides that it is necessary to requisition the premises for any public purpose he shall call upon the landlord and the tenant or the person in possession by notice in writing to show cause within seven days why the premises should not be requisitioned.

(4) If after considering the cause if any, shown by the landlord or the tenant or the person in possession the competent authority is satisfied that it is necessary to requisition the premises for any public purpose he may make an order in writing to that effect :

Provided that where a landlord or tenant is using any premises for the residence of himself or his family the competent authority shall as far as possible provide alternative accommodation which in the opinion of the competent authority is suitable.

(5) A notice under sub-section (3) and an order under sub-section (4) shall be served on the landlord and where the notice or the order relates to premises in occupation of the tenant also on such tenant by delivering or tendering to such landlord and tenant a copy of the notice and the order. But where the landlord or tenant is not readily traceable and the notice and the order cannot be served without undue delay or where ownership of the premises is in dispute the notice and the order shall be served by publishing it in the official Gazette and by affixing a copy thereof to any conspicuous part of the premises to which it relates :

4. *Exclusion of certain premises from requisitioning.*—Nothing in section 3 shall empower the competent authority to requisition premises which are exclusively used for the purpose of religious worship or which are in use for a school, orphanage, or hospital.

5. *Appeal.*—Any person aggrieved by an Order of Requisition may, within seven days from the date on which it is communicated to him, appeal from such order to the Chief Commissioner, Delhi, on the ground that the provisions of this Act relating to requisitioning have not been complied with.

6. *Power to order vacation of premises.*—(1) Where the competent authority requisitions any premises under this Act, he may by notice in writing order the existing tenant or occupier, if any, to vacate the premises within ten days of the receipt of the notice.

(2) If any person fails to comply with an order made under sub-section (1) he shall be deemed to be a trespasser and the Competent Authority may take possession of the premises requisitioned forthwith.

(3) The right to take possession under this section shall not be affected by reason of any appeal preferred against the order of Requisitioning.

7. *Compensation.*—(1) Where any premises are requisitioned under this Act, the amount of compensation shall be determined in the manner, and in accordance with the principles hereinafter set out, namely :—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court ;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the premises requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose ;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation ;

(e) the arbitrator in making his award shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894) so far as they can be made applicable ;

(f) an appeal shall lie to the District Judge against an award of an arbitrator ;

(g) save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

(2) The compensation shall be paid by the competent authority to the person entitled thereto.

8. Rights and liabilities of the Central Government.—(1) Where any premises are requisitioned under this Act, the Central Government—

(i) may use or deal with the premises for such purpose as may be mentioned in the Order of Requisition ;

(ii) may, without prejudice, to the liabilities it may be subject to in respect thereof, transfer by way of sub-lease the whole or any part of such premises ;

(iii) may order the landlord to execute necessary repairs or repairs usually made to premises in that locality and as may be specified in the notice, within such time as may be mentioned therein and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord ;

(iv) shall restore the premises in as good condition as they were in at the time when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force ;

(2) Where any premises requisitioned under this Act or any material part thereof, are wholly destroyed or rendered substantially and permanently unfit for the purpose for which they were let by reason of fire, tempest or flood or violence of any army or of a mob or other irresistible force, the requisition shall at the option of the Central Government be void :

Provided that if the injury is occasioned by the wrongful act or default of the Central Government the Central Government shall not be entitled to avail itself of the benefit of this section.

9. Release from requisition.—(1) Where any premises requisitioned under this Act are to be released from such requisition, the competent authority may, after such inquiry if any as he may in any case consider it necessary to make, specify by order in writing the person to whom possession of the premises shall be given.

(2) The delivery of possession of the premises to the person specified in an order under sub-section (1) shall be a full discharge of the Central Government from all liabilities in respect of the premises, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession is given.

10. Easements, etc., not to be disturbed.—No landlord or any contractor, workman or servant employed by him shall without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requisition, wilfully disturb any convenience or easement attached to any premises requisitioned under this Act, or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the premises.

11. Power to evict from Government premises for breach of terms of tenancy.—(1) Where the person in occupation of any premises belonging to, or taken on lease or requisitioned by, the Central Government, sublets without due authority the whole or any part of the premises or otherwise acts in contravention of any of the terms, express or implied, of his tenancy or other like relationship created by a grant from the Central Government in respect of the premises, or where any person is in occupation of any such premises without the authority of the Central Government, the competent authority may by notice served by post or otherwise, order such person or any other person found in occupation of the premises to vacate the premises within ten days of the receipt of the notice.

(2) Any person aggrieved by an order under sub-section (1) may within seven days of the receipt thereof appeal in writing to the Chief Commissioner, who may, after calling for a report from the competent authority and after making such further inquiry, if any, as he thinks fit, pass an order determining the appeal.

(3) Action may be taken under this section whether or not any proceedings for possession are pending in respect of the premises, and upon such action being taken the said proceedings shall forthwith be vacated.

12. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide for—

(a) the procedure to be followed in arbitrations and appeals under section 7;

(b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal under section 7;

(c) the procedure to be followed by a competent authority in inquiries under section 9;

(d) for defining what are public purposes;

(e) the procedure to be followed in taking possession of the premises requisitioned;

(f) the manner of service of notices and orders.

13. Saving as to orders.—(1) Except as otherwise provided for in this Act no order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall presume, within the meaning of the Indian Evidence Act, 1872 (1 of 1872), that such order was so made by that authority.

14. Protection of action taken under this Act.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) Save as is otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

15. Application of other laws not barred.—(1) The provisions of this Act shall be in addition to and not in derogation of the provisions of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947).

(2) The provisions of this Act shall have effect notwithstanding anything contained in any other law or in any instrument having effect by virtue of any other law.

16. Repeal.—(1) The Delhi Premises (Requisition and Eviction) Ordinance, 1947 (XII of 1947); and the Delhi Premises (Requisition and Eviction) Amendment Ordinance, 1947 (XXI of 1947), are hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under either of the said Ordinances shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 13th day of August, 1947.

The Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1947.

Received the assent of the Governor General on the 31st December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 31st December 1947.

Act No. I of 1947.

An Act to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947.

WHEREAS it is expedient to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1947.

2. Amendment of section 1, Act XIX of 1947.—In clause (a) of sub-section (2) of section 1 of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (hereinafter referred to as the said Act), after the word “premises” the words “situated in the Province of Ajmer-Merwara” shall be inserted.

3. Amendment of section 2, Act XIX of 1947.—To clause (c) of section 2 of the said Act the following word and sub-clause shall be added, namely :—

“or

(iii) where the standard rent has been fixed under section 7A, the rent so fixed ;”

4. Amendment of section 7, Act XIX of 1947.—In sub-section (1) of section 7 of the said Act, after the word “premises” the words, figure and letter “other than premises to which the provisions of section 7A apply,” shall be inserted.

5. Insertion of new section 7A in Act XIX of 1947.—After section 7 of the said Act the following section shall be inserted, namely :—

“7A. *Special provisions relating to newly constructed premises in Delhi.*—The provisions set out in the Fourth Schedule shall apply to the fixation of rent and other matters relating to the premises in Delhi (hereinafter referred to as the newly constructed premises) the construction of which was not completed before the commencement of this section.”

6. Insertion of Fourth Schedule in Act XIX of 1947.—After the Third Schedule to the said Act the following shall be inserted as the Fourth Schedule, namely :—

• “THE FOURTH SCHEDULE

(See section 7A)

Provisions relating to the fixation of rent and other matters in respect of newly constructed premises in Delhi.

1. “Rent Controller” for the purposes of this Schedule means the person appointed by the Central Government as the Rent Controller.

2. If the Rent Controller on a written complaint or otherwise has reason to believe that the rent of any newly constructed premises is excessive, he may, after making such inquiry as he thinks fit, proceed to fix the standard rent thereof.

3. The Rent Controller in fixing the standard rent shall state in writing his reasons therefor.

4. In fixing the standard rent the Rent Controller shall take into consideration all the circumstances of the case including any amount paid or to be paid by the tenant by way of premium or any other like sum in addition to rent.

5. No tenant holding any newly constructed premises under an existing lease or terms otherwise agreed to between the tenant and the landlord shall be required as a result of fixation of the standard rent to pay a rate of rent higher than that fixed in the lease or otherwise agreed to during the currency of an existing lease or an extension thereof, unless the tenant has agreed to some addition, improvement or alteration being carried out in such premises on the understanding that he would pay higher rent and such higher rent is previously or at any subsequent time approved by the Rent Controller.

6. If at any time after the standard rent of any newly constructed premises has been determined under paragraph 2 it appears to the Rent Controller that subsequent to such determination some addition, improvement or alteration, not included in necessary repairs or repairs usually made to premises in that locality has been made to such premises at the landlord's expense, the Rent Controller may, after making such inquiry as he thinks fit, redetermine the standard rent thereof.

Provided that any increase in the standard rent allowed under this paragraph shall not exceed 7½ per cent. of the cost of the addition, improvement or alteration and shall not be chargeable with effect from any date earlier than the date on which the addition, improvement or alteration was completed.

7. For the purposes of an inquiry under paragraphs 2, 5 and 6, the Rent Controller may—

(a) require the landlord to produce any book of account, document or other information relating to the newly constructed premises,

(b) enter and inspect such premises after due notice, and

(c) authorised any officer subordinate to him to enter and inspect such premises after due notice.

8. The standard rent shall in all cases be fixed by the Rent Controller as for a tenancy of twelve months :

Provided that where any newly constructed premises, the standard rent of which is fixed under this paragraph, is let or re-let for a period of less than twelve months, the standard rent for such tenancy shall bear the same proportion to the annual standard rent as the period of tenancy bears to twelve months :

Provided further that where such premises were so let or re-let by reason of the tenant being unwilling to take the same for twelve months, the standard rent for such tenancy shall be determined in accordance with the principles laid down in the Third Schedule.

9. If any dispute arises between a landlord and a tenant over the application of paragraph 8, the matter may be referred by either party to the Rent Controller for decision who shall state in writing his reasons therefor.

10. When the standard rent of any newly constructed premises has been determined—

(a) the landlord, or any person acting or purporting to act on behalf of the landlord, shall not claim or receive in consideration of the grant, renewal or continuance of a tenancy of such premises any premium, advance or other like sum in addition to rent or any rent in excess of the standard rent ;

(b) any agreement for the payment of rent in excess of the standard rent shall be null and void in respect of such excess only ;

(c) any agreement for the payment of any premium, advance or any like sum in addition to rent shall be null and void ;

(d) any sum in excess of the standard rent and any premium, advance or any like sum in addition to the rent paid, whether before or after the coming into operation of this paragraph in respect of such premises shall be refunded to the person by whom it was paid or at the option of such person otherwise adjusted.

11. Any person aggrieved by an order of the Rent Controller may, within thirty days from the date on which the order is communicated to him, appeal to the District Judge, Delhi."

7. *Repeal of Ordinance XVIII of 1947.*—The Delhi and Ajmer-Merwara Rent Control (Amendment) Ordinance, 1947, is hereby repealed..

The Indian Cotton Cess (Amendment) Act, 1947.

Received the assent of the Governor General on the 31st December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 31st December 1947.

Act No. LI of 1947.

An Act further to amend the Indian Cotton Cess Act, 1923.

WHEREAS it is expedient further to amend the Indian Cotton Cess Act, 1923 (XIV of 1923), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Cotton Cess (Amendment) Act, 1947.

2. *Amendment of section 3, Act XIV of 1923.*—In sub-section (1) of section 3 of the Indian Cotton Cess Act, 1923, the words "produced in India and either" and the proviso shall be omitted.

3. *Amendment to have retrospective effect.*—The amendment made by section 2 shall have effect as if this Act had come into force on the fifteenth day of August, 1947..

The Ajmer Merwara (Extension of Laws) Act, 1947.

Received the assent of the Governor General on the 31st December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 31st December 1947.

Act No. LII of 1947.

An Act to provide for the extension of enactments to the Province of Ajmer-Merwara.

WHEREAS it is expedient to provide for the extension of enactments to the Province of Ajmer-Merwara ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Ajmer-Merwara (Extension of Laws) Act, 1947.

2. *Extension of enactments to Ajmer-Merwara.*—The Central Government may, by notification in the official Gazette, extend to the Province of Ajmer-Merwara with such restrictions and modifications as it thinks fit any enactment which is in force in any other Province at the date of such notification.

The Salaries of Ministers Act, 1947.

Received the assent of the Governor General on the 31st December 1947 and is published in the Gazette of India, Extraordinary, Part IV, dated the 31st December 1947.

Act No. LIII of 1947.

An Act to provide for the Salaries of Ministers.

WHEREAS it is expedient to provide for the salaries of the Ministers of the Dominion of India and for matters connected therewith;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Salaries of Ministers Act, 1947;

(2) It shall come into force on the first day of January, 1948.

2. *Definitions.*—In this Act,—

(a) “Minister” means a Minister of the Dominion of India ;

(b) “residence” includes the staff quarters and other buildings appurtenant thereto, and the gardens thereof ;

(c) “maintenance” in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water.

3. *Salaries and allowances of Ministers.*—With effect from the date on which this Act comes into force there shall be paid to each Minister a salary of three thousand rupees *per mensem*, and a sumptuary allowance of five hundred rupees *per mensem*.

4. *Residences of Ministers.*—(1) Each Minister shall be entitled, without payment of rent, to the use of—

(a) a fully furnished residence in New Delhi throughout his term of office and for a period of fifteen days immediately thereafter, and

(b) a fully furnished residence in Simla for such period or periods during the summer season of each year as the Governor General may by general or special order determine,

and no charge shall fall on the Minister personally in respect of the maintenance of either residence.

(2) Nothing in this section shall apply in respect of the use and occupation by any Minister of residences in New Delhi or Simla before the date on which this Act comes into force.

The Federal Court (Enlargement of Jurisdiction) Act, 1948.

Received the assent of the Governor General on the 5th January 1948 and is published in the Gazette of India, Part IV, dated the 5th January 1948.

Act No. I of 1948.

An Act to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases.

WHEREAS it is expedient to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Federal Court (Enlargement of Jurisdiction) Act, 1948.

(2) It shall come into force on the first day of February, 1948, which day is hereinafter referred to as “the appointed day”.

2. *Definitions.*—In this Act,—

(a) “High Court” means any High Court to which the provisions of Chapter II of Part IX of the Government of India Act, 1935, apply ;

(d) “judgment to which this Act applies” means any judgment, decree or final order of a High Court in a civil case from which a direct appeal could have been brought to His Majesty in Council, either with or without special leave, if this Act had not been passed.

3. *Enlargement of the Federal Court's jurisdiction.*—As from the appointed day,—

(a) an appeal shall lie to the Federal Court from any judgment to which this Act applies—

(i) without the special leave of the Federal Court, if an appeal could have been brought to His Majesty in Council without special leave under the provisions of the Code of Civil Procedure, 1908, or of any other law in force immediately before the appointed day, and

(j) with the special leave of the Federal Court in any other case;
(b) in any such appeal as aforesaid it shall be competent for the Federal Court to consider any question of the nature mentioned in sub-section (i) of section 205 of the Government of India Act, 1935; and

(c) no direct appeal shall lie to His Majesty in Council, either with or without special leave, from any such judgment.

4. *Continuance of certain proceedings in High Courts.*—All proceedings and steps taken in, and orders made and certificates granted by, a High Court in connection with an appeal to His Majesty in Council from a judgment to which this Act applies shall, unless the records pertaining to such appeal have before the appointed day been transmitted by the High Court concerned to His Majesty in Council, be deemed to be proceedings and steps taken, orders made, and certificates granted, in connection with an appeal from that judgment to the Federal Court under this Act, and shall be concluded, or as the case may be, have effect, accordingly.

5. *Pending applications for special leave to appeal.*—Every application to His Majesty in Council for special leave to appeal from a judgment to which this Act applies remaining undisposed of immediately before the appointed day shall on that day stand transferred to the Federal Court by virtue of this Act, and shall be disposed of by that Court as if it had been an application duly made to that Court for special leave to appeal from the said judgment.

6. *Modification of existing law.*—The provisions of the Code of Civil Procedure, 1908, and of any other law in force immediately before the appointed day relating to direct appeals in civil cases to His Majesty in Council shall, as from that day, have effect in relation to any appeal from a judgment to which this Act applies as if in the said provisions, for all references to His Majesty in Council, there had been substituted references to the Federal Court.

7. *Savings.*—The preceding provisions of this Act shall not apply to any appeal—

(a) which immediately before the appointed day is pending before His Majesty in Council, if the records pertaining to such appeal have before that day been transmitted by the High Court concerned to His Majesty in Council; or

(b) to the bringing of which to His Majesty in Council special leave has been granted before the appointed day;

and any such appeal may be disposed of by His Majesty in Council as if this Act had not been passed.

8. *Registrar's certificate to be conclusive as to fact of transmission of records.*—If any question arises under section 4 or section 7 whether the records pertaining to an appeal have before the appointed day been transmitted by the High Court concerned to His Majesty in Council a certificate of the Registrar of the High Court that they have been transmitted or not transmitted before the appointed day shall be conclusive evidence on the question.

• The Repealing and Amending Act, 1948.

Received the assent of the Governor General on the 5th January, 1948 and is published in the Gazette of India, Part IV, dated the 5th January, 1948.

Act No. II of 1948.

An Act to repeal or amend certain enactments.

WHEREAS it is expedient that the enactments specified in the Schedule which are spent or have otherwise become unnecessary, or have ceased to

be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed ;

AND WHEREAS it is expedient that certain formal amendments should be made in the Indian Income-tax Act, 1922 (XI of 1922) ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Repealing and Amending Act, 1948.

2. *Repeal of certain enactments.*—The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

3. *Savings.*—The repeal by this Act of any enactment shall not affect any other enactment in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered or any right, title, obligation or liability acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that they respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force, or any provision of the Letter Patent of any High Court which under any such enactment ceased to have effect.

4. *Amendment of section 10 of Act XI of 1922.*—In section 10 of the Indian Income-tax Act, 1922,—

(a) in clause (b) of the proviso to clause (vi) of sub-section (2) for the words, brackets and letter “ clause (a) of ” the words, brackets and letter “ clause (b) of ” shall be substituted ; and

(b) in sub-section (4) for the word, brackets and figure “ clause (xi) ” wherever they occur, the word, brackets and figure “ clause (xv) ” shall be substituted.

THE SCHEDULE

(See section 2.)

Acts of the Indian Legislature.

1920	XL	The Aligarh Muslim University Act, 1920	The provisos to sub-section (3) of section 30.
1924	II	The Cantonments Act, 1924	The second proviso to sub-section (1) of section 13.
1927	XVI	The Indian Forest Act, 1927	Section 86 and the Schedule.
1934	II	The Reserve Bank of India Act, 1934	Clause (7) of section 17.
1939	XXXV	The Defence of India Act, 1939	The whole

Acts of the Central Legislature—contd.

1940	III	The Royal Indian Navy (Extension of Service) Act, 1940	The whole
1940	VII	The Reserve Bank of India (Closing of Annual Accounts) Act, 1940	The whole
1940	XXXVII	The War Donations and Investments (Companies) Act, 1940	The whole
1942	I	The Workmen's Compensation (Amendment) Act, 1942	The whole
1942	II	The Indian Merchant Shipping (Amendment) Act, 1942	The whole
1942	III	The Indus Vessels (Amendment) Act, 1942	The whole
1942	IV	The Indian Medical Council (Amendment) Act, 1942	The whole
1942	V	The Indian Boilers (Amendment) Act, 1942	The whole
1942	VII	The Coffee Market Expansion Act, 1942	Section 50
1942	VIII	The Indian Penal Code (Amendment) Act, 1942	The whole
1942	IX	The Cotton Ginning and Pressing Factories (Amendment) Act, 1942	The whole
1942	XI	The Protective Duties Continuation Act, 1942	The whole
1942	XV	The Cantonments (Amendment) Act, 1942	The whole
1942	XVI	The Indian Limitation (Amendment) Act, 1942	The whole
1942	XVII	The Indian Companies (Amendment) Act, 1942	The whole
1942	XX	The Motor Vehicles (Amendment) Act, 1942	The whole
1942	XXI	The Indian Companies (Second Amendment) Act, 1942	The whole
1942	XXII	The Indian Rubber Control (Temporary Amendment) Act, 1942	The whole
1942	XXIII	The Code of Civil Procedure (Amendment) Act, 1942	The whole
1942	XXIV	The Code of Civil Procedure (Second Amendment) Act, 1942	The whole
1942	XXV	The Repealing and Amending Act, 1942	The whole
1943	I	The Motor Vehicles (Amendment) Act, 1943	The whole
1943	II	The Government Savings Banks (Amendment) Act, 1943	The whole
1943	III	The Indian Railways (Amendment) Act, 1943	The whole
1943	IV	The Aligarh Muslim University Amendment Act, 1943	The whole
1943	V	The Code of Civil Procedure (Amendment) Act, 1943	The whole
1943	VI	The Indian Penal Code (Amendment) Act, 1943	The whole
1943	VII	The Coffee Market Expansion (Amendment) Act, 1943	The whole
1943	XII	The Indian Tea Control (Amendment) Act, 1943	The whole
1943	XIV	The Indian Army and Air Force (Military Prisons and Detention Barracks) Act, 1943	The whole

Acts of the Central Legislature—contd.

1943	XV	The Trade Marks (Amendment) Act, 1943	The whole
1943	XVI	The Muslim Personal Law (<i>Shariat</i>) Application (Amendment) Act, 1943	The whole
1943	XVII	The Indian Boilers (Amendment) Act, 1943	The whole
1943	XVIII	The Mines Maternity Benefit (Amendment) Act, 1943	The whole
1943	XIX	The Motor Vehicles (Drivers) Amendment Act, 1943	The whole
1943	XX	The Agricultural Produce (Grading and Marking) Amendment Act, 1943	The whole
1943	XXI	The Indian Army and Indian Air Force (Amendment) Act, 1943	The whole
1943	XXII	The Reciprocity (Amendment) Act, 1943	The whole
1943	XXIV	The Delhi University (Amendment) Act, 1943	The whole
1943	XXV	The Victoria Memorial (Amendment) Act, 1943	The whole
1943	XXVI	The Criminal Procedure Amendment Act, 1943	The whole
1943	XXVII	The Code of Criminal Procedure (Amendment) Act, 1943	The whole
1943	XXVIII	The Code of Criminal Procedure (Second Amendment) Act, 1943	The whole
1943	XXIX	The Indian Tea Control (Second Amendment) Act, 1943	The whole
1943	XXX	The Indian Companies (Amendment) Act, 1943	The whole
1944	I	The Central Excises and Salt Act, 1944	Section 39 and the Third Schedule.
1944	II	The Coffee Market Expansion (Amendment) Act, 1944	The whole
1944	III	The Coal Mines Safety (Stowing) Amendment Act, 1944	The whole
1944	IV	The Indian Companies (Amendment) Act, 1944	The whole
1944	V	The Indian Aircraft (Amendment) Act, 1944	The whole
1944	VI	The Transfer of Property (Amendment) Act, 1944	The whole
1944	VII	The Insurance (Amendment) Act, 1944	The whole
1944	VIII	The Cantonments (Amendment) Act, 1944	The whole
1944	IX	The Indian Merchant Shipping (Amendment) Act, 1944	The whole
1944	XI	The Indian Income-tax (Amendment) Act, 1944	The whole
1944	XII	The Delhi Muslim Wakfs (Amendment) Act, 1944	The whole
1944	XIII	The Protective Duties Continuation Act, 1944	The whole
1944	XV	The Indian Patents and Designs Temporary (Amendment) Act, 1944	The whole
1944	XVI	The Coffee Market Expansion (Second Amendment) Act, 1944	The whole

Acts of the Central Legislature—concl'd.

1944	XVII	The Delhi Joint Water and Sewage Board (Amendment) Act, 1944	The whole
1945	I	The Indian Tea Control (Amendment) Act, 1945	The whole
1945	II	The Code of Criminal Procedure (Amendment) Act, 1945	The whole
1945	IV	The Indian Companies (Amendment) Act, 1945	The whole
1945	V	The Indian Merchandise Marks (Amendment) Supplementary Act, 1945	The whole
1945	VI	The Repealing and Amending Act, 1945	The whole
1945	VII	The Indian Army (Amendment) Act, 1945	The whole
1945	VIII	The Indian Air Force (Amendment) Act, 1945	The whole
1945	IX	The Indian Patents and Designs (Amendment) Act, 1945	The whole
1945	X	The Mines Maternity Benefit (Amendment) Act, 1945	The whole
1945	XI	The Aligarh Muslim University (Amendment) Act, 1945	The whole

Ordinances made by the Governor General

1940	II	The National Service (Technical Personnel) Ordinance, 1940	The whole
1940	VIII	The Civic Guards Ordinance, 1940	The whole
1942	X	The Civil Pioneer Force Ordinance, 1942	The whole
1942	XIII	The Women's Auxiliary Corps Ordinance, 1942	The whole
1942	XV	The Prisoners (Amendment) Ordinance, 1942	The whole
1942	XXI	The Deputy Commander-in-Chief (Powers) Ordinance, 1942	The whole
1942	XXXIII	The Civil Services (Conditions of Service) Ordinance, 1942	The whole
1942	LIII	The Railways (Employment of Military Personnel) Ordinance, 1942	The whole
1942	LVI	The Allied Forces Ordinance, 1942	The whole
1942	LVI	The Allied Forces (United States of America) Ordinance, 1942	The whole
1942	LXII	The Indian Legislature (Prevention of Disqualification) Ordinance, 1942	The whole
1943	I	The Enemy Agents Ordinance, 1943	The whole
1943	VI	The Indian Standard Time (Interpretation of References) Ordinance, 1943	The whole
1943	XIII	The Essential Services (Telephone Employees) Ordinance, 1943	The whole
1943	XVII	The Royal Indian Navy (Powers of Command) Ordinance, 1943	The whole
1943	XXI	The Parole Centres Ordinance, 1943	The whole
1943	XXII	The Special Police Establishment (War Department) Ordinance, 1943	The whole
1943	XXIV	The Discipline of Seamen Ordinance, 1943	The whole

Ordinances made by the Governor General—contd.

1943	XXVIII	The Allied Forces (Exemption from Local Taxation) Ordinance, 1943	The whole
1943	XXXI	The Factories (Control of Dismantling) Ordinance, 1943	The whole
1943	XXXIII	The Military Stores (Unlawful Possession) Ordinance, 1943	The whole
1943	XXXV	The Hoarding and Profiteering Prevention Ordinance, 1943	The whole
1943	XLI	The Sugar (Temporary Excise Duty) Ordinance, 1943	The whole
1944	IV	The Military Safety (Powers of Detention) Ordinance, 1944	The whole
1944	XX	The Service in Ships (Requisition) Ordinance, 1944	The whole
1944	XXXI	The Indian Army (Second Amendment) Ordinance, 1944	So much as is not repealed.
1944	XXXV	The Defence of India (Second Amendment) Ordinance, 1944	The whole
1944	L	The Sugar (Temporary Excise Duty) Ordinance, 1944	The whole
1945	I	The Factories (Control of Dismantling) Amendment Ordinance, 1945	The whole
1945	II	The National Service (European British Subjects) Amendment Ordinance, 1945	The whole
1945	III	The Delhi Rent Control (Amendment) Ordinance, 1945	The whole
1945	IV	The Military Safety (Powers of Detention) Amendment Ordinance, 1945	The whole
1945	VIII	The Essential Services (Dibru Sadiya and Colliery Branch Railway) Ordinance, 1945	The whole
1945	IX	The Indian Income-tax (Amendment) Ordinance, 1945	The whole
1945	XI	The Provincial Debt Laws (Temporary Validation) Ordinance, 1945	The whole
1945	XII	The Criminal Law (1943 Amendment) Amending Ordinance, 1945	The whole
1945	XIV	The Criminal Law (1944 Amendment) Amending Ordinance, 1945	The whole
1945	XVI	The Income-tax and Excess Profits Tax (Validity of Notices) Amendment Ordinance, 1945	The whole
1945	XVII	The Mines (Amendment) Ordinance, 1945	The whole
1945	XVIII	The Explosives (Amendment) Ordinance, 1945	The whole
1945	XX	The Excess Profits Tax (Amendment) Ordinance, 1945	The whole
1945	XXI	The Refugee Camps Ordinance, 1945	The whole
1945	XXII	The Criminal Law (1943 Amendment) Second Amending Ordinance, 1945	The whole
1945	XXV	The Defence of India (Amendment) Ordinance, 1945	The whole
1945	XXVII	The Civil Pioneer Force (Amendment) Ordinance, 1945	The whole

Ordinances made by the Governor General—concl'd.

1945	XXXI	The Defence of India (Second Amendment) Ordinance, 1945	The whole
1945	XXXV	The Defence of India (Third Amendment) Ordinance, 1945	The whole
1945	XXXVI	The Armed Forces (Special Powers) Amendment Ordinance, 1945	The whole
1945	XXXVII	The Indian Army (Amendment) Ordinance, 1945	The whole
1945	XXXVIII	The National Service (European British Subjects) Amendment Ordinance, 1945	The whole
1945	XXXIX	The Bills of Exchange Ordinance, 1945	The whole
1945	XLI	The War Injuries (Compensation Insurance) Amendment Ordinance, 1945	The whole
1945	XLII	The Indian Army and Indian Air Force (Amendment) Ordinance, 1945	The whole
1945	XLIII	The Hoarding and Profiteering Prevention (Amendment) Ordinance, 1945	The whole
1945	XLIV	The Defence of India Reserve (Disbandment) Ordinance, 1945	The whole
1945	XLV	The Defence of India (Fourth Amendment) Ordinance, 1945	The whole
1945	XLVIII	The Indian Army (Second Amendment) Ordinance, 1945	The whole
1946	XI	The Defence of India (Amendment) Ordinance, 1946	The whole
1946	XII	The Defence of India (Second Amendment) Ordinance, 1946	The whole

The Armed Forces (Special Powers) Act, 1948.

Received the assent of the Governor General on the 5th January 1948 and is published in the Gazette of India, Extraordinary, Part IV, dated the 5th January 1948.

Act No. III of 1948.

An Act to enable certain special powers to be conferred upon officers of the armed forces in disturbed areas.

WHEREAS it is expedient to enable certain special powers to be conferred upon officers of the armed forces in disturbed areas;

It is hereby enacted as follows:—

1. *Short title, extent and duration.*—(1) This Act may be called the Armed Forces (Special Powers) Act, 1948.

(2) It extends to all the Provinces of India.

(3) It shall remain in force only for a period of one year:

Provided that the Central Government may, by notification in the official Gazette, direct that it shall remain in force for a further period not exceeding one year.

2. *Special powers of officers of military or air forces.*—Any commissioned officer, warrant officer or non-commissioned officer of His Majesty's military or air forces may, in any area in respect of which a proclamation under sub-section (1) of section 15 of the Police Act, 1861 (V of 1861) is for the time being in force or which is for the time being by any form of words declared by the Provincial Government under any other law to be a disturbed or dangerous area,—

(a) If in his opinion it is necessary so to do for the maintenance of public order, after giving such warning, if any, as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the said area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons ;

(b) arrest without warrant any person who has committed a cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence ;

(c) enter and search, without warrant, any premises to make any such arrest as aforesaid, or to recover any person believed to be wrongfully restrained or confined, or any property reasonably suspected to be stolen property, or any arms believed to be unlawfully kept, in such premises.

3. *Protection of persons acting under this Act.*—No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred by section 2.

4. *Repeal of certain Ordinances.*—The Bengal Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XI of 1947), the Assam Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XIV of 1947), the East Punjab and Delhi Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XVII of 1947), and the United Provinces Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XXII of 1947), are hereby repealed.

5. *Effect of expiry of Act.*—On the expiry of this Act section 6 of the General Clauses Act, 1897 (X of 1897), shall apply as if this Act were then repealed by a Central Act.

The Armed Forces (Emergency Duties) Amendment Act, 1948.

Received the assent of the Governor General on the 5th January 1948 and is published in the Gazette of India, Extraordinary, Part IV, dated the 5th January 1948.

Act No. IV of 1948.

An Act to amend the Armed Forces (Emergency Duties) Act, 1947.

WHEREAS it is expedient to amend the Armed Forces (Emergency Duties) Act, 1947 (XV of 1947), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Armed Forces (Emergency Duties) Amendment Act, 1948.

2. *Amendment of section 1, Act XV of 1947.*—In section 1 of the Armed Forces (Emergency Duties) Act, 1947 (hereinafter referred to as the said Act), the brackets and figure “(1)” and sub-section (2) shall be omitted.

3. *Amendment of section 2, Act XV of 1947.*—In sub-section (1) of section 2 of the said Act, after the words “any specified service”, the words “in a Province, or, if so requested by the Government of an Acceding State, any specified service in that State” shall be inserted.

The Indian Tariff (Second Amendment) Act, 1948.

Received the assent of the Governor General on the 12th January 1948 and is published in the Gazette of India, Extraordinary, Part IV, dated the 12th January, 1948.

Act No. V of 1948.*An Act further to amend the Indian Tariff Act, 1934.*

WHEREAS it is expedient further to amend the Indian Tariff Act, 1934 (XXXII of 1934), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Tariff (Second Amendment) Act, 1948.

(2) It shall come into force at once, but clauses (h) and (i) of sub-section (1) of section 2, and sub-section (2) of section 2 in their application to Item 71 (8) of the First Schedule to the Indian Tariff Act, 1934, shall take effect only from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Amendment of First Schedule, Act XXXII of 1934.*—(1) In the First Schedule to the Indian Tariff Act, 1934,—

(a) in Item No. 8, in the second column, the words “dried, salted” shall be omitted ;

(b) after Item No. 8 (1) the following items shall be inserted, namely:—

“8 (2)	FRUITS, dried (salted and all other kinds) not otherwise specified.	Preferential revenue.	36 per cent. <i>ad valorem</i> .	...	24 per cent. <i>ad valorem</i> .	...
8 (3)	FRUITS, candied and crystallised.	Protective	80 per cent. <i>ad valorem</i> .	...	...	December 31st, 1948.”

(c) in Item No. 20, in the second column, the words “jams, jellies” shall be omitted and after the word “sauces” the word “ketchups” shall be inserted ;

(d) for Item No. 20 (1) the following item shall be substituted, namely :—

“20 (1)	FRUIT JUICES, Squashes, Cordials and Syrups— (a) manufactured in a British Colony (b) not manufactured in a British Colony.	Protective Protective	27 per cent. <i>ad valorem</i> . 40 per cent. <i>ad valorem</i> .			December 31st, 1948. December 31st, 1948.”
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(e) in Item No. 20 (2), in the second column, the words “FRUITS and” shall be omitted ;

(t) after Item No. 20 (2) the following items shall be inserted, namely :—

“20 (3)	FRUITS, canned or bottled—					
	(a) manufactured in a British Colony.	Protective	40 per cent. <i>ad valorem.</i>	...	...	December 31st, 1948.
	(b) not manufactured in a British Colony.	Protective	60 per cent. <i>ad valorem.</i>	...	...	December 31st, 1948.
20 (4)	JAMS, JELLIES and MARMALADES, canned or bottled.	Protective	80 per cent. <i>ad valorem.</i>	...	...	December 31st, 1948”;

(g) in Item No. 30 (10), in the second column, after the word “paper” the words “when imported as stores apart from machinery” shall be inserted ;

(h) after Item 71(7), the following item shall be inserted, namely :—

“71 (8)	G R I N D I N G WHEELS AND SEGMENTS.	Protective	50 per cent <i>ad valorem.</i>	...	...	December 31st, 1950.”;
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(i) in Item No. 72(3), in the second column, after the words “GOM-PONENT PARTS OF MACHINERY”, the words and brackets “excluding GRINDING WHEELS AND SEGMENTS)” shall be inserted.

(2) The additional duties of customs referred to in section 4 of the Indian Finance Act, 1947 (XX of 1947), shall not be levied or collected on the goods comprised in Items Nos. 8(2), 8(3), 20(1), 20(3), 20(4) and 71(8) of the aforesaid Schedule.

The Code of Civil Procedure (Amendment) Act, 1948.

Received the assent of the Governor General on the 21st February, 1948 and is published in the *Gazette of India, Extraordinary*, Part IV, dated the 21st February, 1948.

Act No. VI of 1948.

An Act further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Code of Civil Procedure (Amendment) Act, 1948.

2. *Amendment of Section 80, Act V of 1908.*—In Section 80 of the Code of Civil Procedure, 1908,—

(i) in clause (a) after the words ‘Central Government’ the following words shall be inserted, namely:—

‘except where it relates to a railway’;

(ii) after clause (a), the following new clause (aa) shall be inserted, namely:—

‘(aa) in the case of a suit against the Central Government where it relates to a railway, the General Manager of that railway.’

The Cotton Textiles Cess Act, 1948.

Received the assent of the Governor General on the 1st March 1948 and is published in the *Gazette of India, Extraordinary*, Part IV, dated the 1st March 1948.

Act No. VII of 1948.

An Act to impose a cess on certain cotton textiles manufactured in the Provinces of India.

WHEREAS it is expedient to impose a cess on certain cotton textiles manufactured in the Provinces of India;

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Cotton Textiles Cess Act, 1948.

(2) It extends to all the Provinces of India.

(3) It shall be deemed to have come into force on the 31st day of December 1947.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “cloth” and “yarn” mean respectively the cloth and yarn of which prices fixed by any order made under Section 3 or continued by Section 17 of the Essential Supplies (Temporary Powers) Act, 1946, were in force immediately before the commencement of this Act;

(b) “producer” means a person engaged in the production of cloth or yarn or both by power as defined in clause (f) of Section 2 of the Factories Act, 1934 (XXV of 1934).

3. *Levy of Cess.*—The Central Government may, by notification in the official gazette, levy on any cloth or yarn held in stock by a producer or a wholesale dealer on such date as the Central Government may fix in this behalf a cess at such rate as may be specified in the notification.

4. *Effect on Contracts.*—Where before the date mentioned in Section 3 a producer or wholesale dealer has made a contract of sale in respect of any cloth or yarn on which a cess is levied under that Section, it shall be lawful for him to charge the amount of the cess to the buyer in addition to the contract price.

5. *Payment of Cess.*—The cess shall be paid by the producer or the wholesale dealer as the case may be to such authority within such time and in such manner as may be specified in the notification.

6. *Penalty for non-payment.*—If any cess payable under this Act is not paid as prescribed, it shall be deemed to be in arrears and the authority appointed in this behalf by the Central Government may, after such enquiry as he deems fit, impose on the producer or the dealer a penalty not exceeding the amount of cess in arrears.

7. *Recovery of Cess and Penalty.*—The amount of cess in arrears and any sum imposed as penalty under Section 6 shall, without prejudice to any other liability incurred under this Act be recovered as arrears of land revenue.

8. *Power of inspection, entry and search.*—Any authority authorised by the Central Government in this behalf may, with a view to securing compliance with this Act,—

(a) require any producer or dealer to furnish to such authority such information relating to his business as that authority may specify :

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of such producer or dealer :

(c) enter and search or authorise any person to enter and search any premises and seize or authorise any person to seize any cloth or yarn in respect of which he has reason to believe that a contravention of this Act has been or is about to be committed.

9. *Penalty for evasion of cess or failure to comply with order under section 8.*—(1) Whoever evades or attempts to evade the payment of cess payable by him under this Act or fails to comply with any order issued to him under clause (a) of Section 8 or furnishes any information which is false and which he knows or has reasonable cause to believe to be false or does not believe to be true, shall be punishable with imprisonment which may extend to 6 months or with fine which may extend to two thousand rupees or with both.

(2) Any court trying any offence under this Act may order that any cloth or yarn together with the packages or coverings thereof in respect of which the court is satisfied that an offence under this Act has been committed shall be forfeited to the Central Government.

The Pharmacy Act, 1948.

Received the assent of the Governor-General on the 4th March 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 4th March 1948.

Act No. VIII of 1948.

An Act to regulate the profession of pharmacy.

WHEREAS it is expedient to make better provision for the regulation of the profession and practice of pharmacy and for that purpose to constitute Pharmacy Councils ;

It is hereby enacted as follows :—

CHAPTER I

INTRODUCTORY

1. *Short title, extent and commencement.*—(1) This Act may be called the Pharmacy Act, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force at once, but Chapters III, IV and V shall take effect in a particular Province from such date not later than three years from the commencement of this Act, as the Provincial Government may, by notification in the official Gazette, appoint in this behalf.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “agreement” means an agreement entered into under section 20 ;

(b) "approved" means approved by the Central Council under section 12 or section 14;

(c) "Indian University" means a university in any Province of India established by an Indian law;

(d) "Central Council" means the Pharmacy Council of India constituted under section 3;

(e) "Executive Committee" means the Executive Committee of the Central Council or of the Provincial Council, as the context may require;

(f) "*medical practitioner*" means a person holding a qualification granted by an authority specified or notified under section 3 of the Indian Medical Degrees Act, 1916 (VII of 1916) or specified in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933) or a person registered or eligible for registration in a medical register of a Province meant for the registration of persons practising allopathic system of medicine;

(g) "*prescribed*" means in Chapter II prescribed by regulations made under section 18, and elsewhere prescribed by rules made under section 46;

(h) "Provincial Council" means a Provincial Council of Pharmacy constituted under section 19, and includes a Joint Provincial Council of Pharmacy constituted in accordance with an agreement under section 20;

(i) "register" means a register of pharmacists prepared and maintained under Chapter IV;

(j) "*registered pharmacist*" means a person whose name is for the time being entered on the register of the Province in which he is for the time being residing or carrying on his profession or business of pharmacy.

CHAPTER II

THE PHARMACY COUNCIL OF INDIA

3. *Constitution and composition of Central Council.*---The Central Government shall as soon as may be, constitute a Central Council consisting of the following members, namely:—

(a) six members, among whom there shall be at least one teacher of each of the subjects, pharmaceutical chemistry, pharmacy, pharmacology and pharmacognosy elected by the authority known as the Inter University Board from among persons on the teaching staff of an Indian University or a college affiliated thereto which grants a degree or diploma in pharmacy;

(b) six members, of whom at least three shall be persons possessing a degree or diploma in, and practising pharmacy or pharmaceutical chemistry, nominated by the Central Government;

(c) one member elected from amongst themselves by the members of the Medical Council of India;

(d) the Director General, Health Services, *ex-officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;

(e) the Director of the Central Drugs Laboratory, *ex-officio*;

(f) the Chief Chemist, Central Revenues, *ex-officio*;

(g) one member to represent each Governor's Province elected by the members of each Provincial Council, who shall be a registered pharmacist;

(h) one member to represent each Governor's Province nominated by each such Provincial Government, who shall be either a registered medical practitioner or a registered pharmacist.

Provided that for five years from the first constitution of the Central Council, instead of members elected under clause (g) each Government of the Governors' Provinces shall nominate one member, being a person eligible for registration as a pharmacist under section 31.

4. *Incorporation of Central Council.*---The Council constituted under section 3 shall be a body corporate by the name of the Pharmacy Council

of India, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and shall by the said name sue and be sued.

5. *President and Vice-President of Central Council.*—(1) The President and Vice-President of the Central Council shall be elected by the members of the said Council from among themselves :

Provided that for five years from the first constitution of the Central Council the President shall be a person nominated by the Central Government who shall hold office at the pleasure of the Central Government and where he is not already a member, shall be a member of the Central Council in addition to the members referred to in section 3.

(2) An elected President or Vice-President shall hold office as such for a term not exceeding five years and not extending beyond the expiry of his term as member of the Central Council, but subject to his being a member of the Central Council, he shall be eligible for re-election.

6. *Mode of elections.*—Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election it shall be referred to the Central Government whose decision shall be final.

7. *Term of office and casual vacancies.*—(1) Subject to the provisions of this section, a nominated or elected member, other than a nominated President, shall hold office for a term of five years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer.

(2) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) A nominated or elected member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Central Council, from three consecutive meetings of the Central Council or if he is elected under clause (a), (c) or (g) of section 3, if he ceases to be a member of the teaching staff, Medical Council of India or a registered pharmacist, as the case may be.

(4) A casual vacancy in the Central Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected.

(5) No act done by the Central Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Central Council.

(6) Members of the Central Council shall be eligible for re-nomination or re-election.

8. *Staff, remuneration and allowances.*—(1) The Central Council may appoint a Secretary who may also, if so decided by the Central Council, act as Treasurer :

Provided that for the first four years from the first constitution of the Central Council, the Secretary shall be a person appointed by the Central Government, who shall hold office during the pleasure of the Central Government.

(2) The Central Council may, with the previous sanction of the Central Government,—

(a) appoint such other officers and servants as may be required to enable the Central Council to carry out its functions under this Act;

(b) fix the salaries and allowances and other conditions of service of the Secretary and other officers and servants;

(c) fix the rates of allowances payable to members of the Central Council.

9. *The Executive Committee.*—(1) The Central Council shall, as soon as may be, constitute an Executive Committee consisting of the President (who shall be Chairman of the Executive Committee) and Vice-President, *ex-officio*, and five other members elected by the Central Council from amongst its members.

(2) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the Central Council, but, subject to his being a member of the Central Council, he shall be eligible for re-election.

(3) In addition to the powers and duties conferred and imposed upon it by this Act the Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

10. *Education Regulations.*—(1) Subject to the provisions of this section, the Central Council may, subject to the approval of the Central Government, make regulations, to be called the Education Regulations, prescribing the minimum standard of education required for qualification as a pharmacist.

(2) In particular and without prejudice to the generality of the foregoing power, the Education Regulations may prescribe—

(a) the nature and period of study and of practical training to be undertaken before admission to an examination;

(b) the equipment and facilities to be provided for students undergoing approved courses of study;

(c) the subjects of examination and the standards therein to be attained;

(d) any other conditions of admission to examinations.

(3) Copies of the draft of the Education Regulations and of all subsequent amendments thereof shall be furnished by the Central Council to all Provincial Governments, and the Central Council shall before submitting the Education Regulations or any amendment thereof, as the case may be, to the Central Government for approval under sub-section (1) take into consideration the comments of any Provincial Government received within three months from the furnishing of the copies as aforesaid.

(4) The Education Regulations shall be published in the official Gazette and in such other manner as the Central Council may direct.

(5) The Executive Committee shall from time to time report to the Central Council on the efficacy of the Education Regulations and may recommend to the Central Council such amendments thereof as it may think fit.

11. *Application of Education Regulations to Provinces.*—At any time after the constitution of the Provincial Council under Chapter III and after consultation with the Provincial Council, the Provincial Government may, by notification in the official Gazette, declare that the Education Regulations shall take effect in the Province :

Provided that where no such declaration has been made, the Education Regulations shall take effect in the Province on the expiry of three years from the date of the constitution of the Provincial Council.

12. *Approved courses of study and examinations.*—(1) Any authority in a Province of India which conducts a course of study for pharmacists may apply to the Central Council for approval of the course, and the Central Council, if satisfied, after such enquiry as it thinks fit to make, that the said course of study is in conformity with the Education Regulations, shall declare the said course of study to be an approved course of study for the purpose of admission to an approved examination for pharmacists.

(2) Any authority in a Province of India which holds an examination in pharmacy may apply to the Central Council for approval of the

examination, and the Central Council, if satisfied, after such enquiry as it thinks fit to make, that the said examination is in conformity with the Education Regulations, shall declare the said examination to be an approved examination for the purpose of qualifying for registration as a pharmacist under this Act.

(3) Every authority in the Provinces of India which conducts an approved course of study or holds an approved examination shall furnish such information as the Central Council may, from time to time, require as to the courses of study and training and examination to be undergone, as to the ages at which such courses of study and examination are required to be undergone and generally as to the requisites for such courses of study and examination.

13. *Withdrawal of approval.*—(1) Where the Executive Committee reports to the Central Council that an approved course of study or an approved examination does not continue to be in conformity with the Education Regulations, the Central Council shall give notice to the authority concerned of its intention to take into consideration the question of withdrawing the declaration of approval accorded to the course of study or examination, as the case may be, and the said authority shall within three months from the receipt of such notice forward to the Central Council through the Provincial Government such representation in the matter as it may wish to make.

(2) After considering any representation which may be received from the authority concerned and any observations thereon which the Provincial Government may think fit to make, the Council may declare that the course of study or the examination shall be deemed to be approved only when completed or passed, as the case may be, before a specified date.

14. *Qualifications granted outside the Provinces of India.*—The Central Council, if it is satisfied that any qualification in pharmacy granted by an authority outside the Provinces of India affords a sufficient guarantee of the requisite skill and knowledge, may declare such qualification to be an approved qualification for the purpose of qualifying for registration under this Act, and may for reasons appearing to it sufficient at any time declare that such qualification shall be deemed to be approved only when granted before or after a specified date :

Provided that no person other than a British subject of Indian domicile possessing such qualification shall be deemed to be qualified for registration unless by the law and practice of the State or country in which the qualification is granted, persons of Indian origin holding such qualification are permitted to enter and practice the profession of pharmacy.

15. *Mode of declarations.*—All declarations under section 12, section 13 or section 14 shall be made by resolution passed at a meeting of the Central Council, and shall have effect as soon as they are published in the official Gazette.

16. *Inspection.*—(1) The Executive Committee may appoint such number of Inspectors as it may deem requisite for the purposes of this Chapter.

(2) An Inspector may—

- (a) inspect any institution which provides an approved course of study ;
- (b) attend at any approved examination ;
- (c) inspect any institution whose authorities have applied for the approval of its course of study or examination under this Chapter, and attend at any examination of such institution.

(3) An Inspector attending at any examination under sub-section (2) shall not interfere with the conduct of the examination, but he shall report to the Executive Committee on the sufficiency of every examination he

attends and on any other matter in regard to which the Executive Committee may require him to report.

(4) The Executive Committee shall forward a copy of every such report to the authority or institution concerned, and shall also forward a copy together with any comments thereon which the said authority or institution may have made, to the Central Government and to the Government of the Province in which the authority or institution is situated.

17. *Information to be furnished.*—(1) The Central Council shall furnish copies of its minutes and of the minutes of the Executive Committee and an annual report of its activities together with an abstract of its accounts to the Central Government.

(2) The Central Government may publish in such manner as it may think fit any report, copy or abstract, furnished to it under this section or under section 16.

18. *Power to make regulations.*—(1) The Central Council may, with the approval of the Central Government, make regulations consistent with this Act to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the management of the property of the Central Council and the maintenance and audit of its accounts;

(b) the manner in which elections under this Chapter shall be conducted;

(c) the summoning and holding of meetings of the Central Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(d) the functions of the Executive Committee, the summoning and holding meetings thereof, the times and places at which such meetings shall be held and the number of members necessary to constitute a quorum;

(e) the powers and duties of the President and Vice-President;

(f) the qualifications, the term of office and the powers and duties of the Secretary, Inspectors and other officers and servants of the Central Council, including the amount and nature of the security to be furnished by the Treasurer.

(3) Until regulations are made by the Central Council under this section, the President may, with the previous sanction of the Central Government, make such regulations under this section, including those to provide for the manner in which the first elections to the Central Council shall be conducted, as may be necessary for carrying into effect the provisions of this Chapter, and any regulations so made may be altered or rescinded by the Central Council in exercise of its powers under this section.

CHAPTER III

PROVINCIAL PHARMACY COUNCILS

19. *Constitution and composition of Provincial Councils.*—Except where a Joint Provincial Council is constituted in accordance with an agreement made under section 20, the Provincial Government shall constitute a Provincial Council consisting of the following members, namely:—

(a) six members, elected from amongst themselves by registered pharmacists of the Province;

(b) five members, of whom at least two shall be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or members of the pharmaceutical profession, nominated by the Provincial Government;

(c) one member elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of the Province, as the case may be;

(d) the chief administrative medical officer of the Province *ex-officio*

or if he is unable to attend any meeting, a person authorized by him in writing to do so;

(e) the Government Analyst under the Drugs Act, 1940 (XXIII of 1940), *ex-officio*, or where there is more than one, such one as the Provincial Government may appoint in this behalf:

Provided that where an agreement is made under clause (b) of sub-section (1) of section 20, the agreement may provide that the Provincial Council to serve the needs of the other participating Provinces also shall be augmented by not more than two members, of whom at least one shall at all times be a person possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or a member of the pharmaceutical profession, nominated by the Government of each of the said other participating Provinces, and where the agreement so provides, the composition of the Provincial Council shall be deemed to be augmented accordingly.

20. *Interprovincial agreements.*—(1) Two or more Provincial Governments may enter into an agreement to be in force for such period and to be subject to renewal for such further periods, if any, as may be specified in the agreement, to provide—

(a) for the constitution of a Joint Provincial Council for all the participating Provinces, or

(b) that the Provincial Council of one Province shall serve the needs of the other participating Provinces.

(2) In addition to such matters as are in this Act specified, an agreement under this section may—

(a) provide for the apportionment between the participating Provinces of the expenditure in connection with the Provincial Council or Joint Provincial Council;

(b) determine which of the participating Provincial Governments shall exercise the several functions of the Provincial Governments under this Act, and the references in this Act to the Provincial Government shall be construed accordingly;

(c) provide for consultation between the participating Provincial Governments either generally or with reference to particular matters arising under this Act;

(d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published in the official Gazettes of the participating Provinces.

21. *Composition of Joint Provincial Councils.*—A Joint Provincial Council shall consist of the following members, namely:—

(a) such number of members, being not less than three and not more than five as the agreement shall provide elected from amongst themselves by the registered pharmacists of each of the participating Provinces;

(b) such number of members, being not less than two and not more than four as the agreement shall provide nominated by each participating Provincial Government;

(c) one member, elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of each participating Province, as the case may be;

(d) the chief administrative medical officer of each participating Province, *ex-officio* or if he is unable to attend any meeting, a person authorized by him in writing to do so;

(e) the Government Analyst under the Drugs Act, 1940 (XXIII of 1940) of each participating Province, *ex-officio* or where there is more than

one in any such Province, such one as the Provincial Government may appoint in this behalf.

(2) The agreement may provide that within the limits specified in clauses (a) and (b) of sub-section (1) the number of members to be elected or nominated under those clauses may or may not be the same in respect of each participating Province.

(3) Of the members nominated by each Provincial Government under clause (b) of sub-section (1), at least half shall be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or members of the pharmaceutical profession.

23. Incorporation of Provincial Councils.—Every Provincial Council shall be a body corporate by such name as may be notified by the Provincial Government in the official Gazette or, in the case of a Joint Provincial Council, as may be determined in the agreement, having perpetual succession and a common seal, with power to acquire or hold property both movable and immovable and shall by the said name sue and be sued.

23. President and Vice-President of Provincial Council.—(1) The President and Vice-President of the Provincial Council shall be elected by the members from amongst themselves:

Provided that for five years from the first constitution of the Provincial Council the President shall be a person nominated by the Provincial Government who shall hold office at the pleasure of the Provincial Government and where he is not already a member, shall be a member of the Provincial Council in addition to the members referred to in section 19 or section 21, as the case may be.

(2) An elected President or Vice-President shall hold office as such for a term not exceeding five years and not exceeding beyond the expiry of his term as a member of the Provincial Council, but subject to his being a member of the Provincial Council, he shall be eligible for re-election.

24. Mode of elections.—Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the Provincial Government whose decision shall be final.

25. Term of office and casual vacancies.—(1) Subject to the provisions of this section, a nominated or elected member, other than a nominated President, shall hold office for a term of five years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer.

(2) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) A nominated or elected member shall be deemed to have vacated his seat if he is absent without excuse sufficient in the opinion of the Provincial Council from three consecutive meetings of the Provincial Council, or if he is elected under clause (a) or (c) of section 19 or 21, if he ceases to be a registered pharmacist or ceases to be a member of the Medical Council or Council of Medical Registration of the Province, as the case may be.

(4) A casual vacancy in the Provincial Council shall be filled by fresh nomination or election as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected.

(5) No act done by the Provincial Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Provincial Council.

(6) Members of the Provincial Council shall be eligible for re-nomination or re-election.

26. Staff, remuneration and allowances.—The Provincial Council may, with the previous sanction of the Provincial Government,—

(a) appoint a Registrar who shall also act as Secretary and, if so decided by the Provincial Council, Treasurer, of the Provincial Council;

(b) appoint such other officers and servants as may be required to enable the Provincial Council to carry out its functions under this Act;

(c) fix the salaries and allowances and other conditions of service of the Secretary and other officers and servants of the Provincial Council;

(d) fix the rates of allowances payable to members of the Provincial Council;

Provided that for the first four years from the first constitution of the Provincial Council, the Registrar shall be a person appointed by the Provincial Government, who shall hold office during the pleasure of the Provincial Government.

27. The Executive Committee.—(1) The Provincial Council shall, as soon as may be, constitute an Executive Committee consisting of the President (who shall be Chairman of the Executive Committee) and Vice-President, *ex-officio*, and such number of other members elected by the Provincial Council from amongst themselves as may be prescribed.

(2) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the Provincial Council, but, subject to his being a member of the Provincial Council, he shall be eligible for re-election.

(3) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

28. Information to be furnished.—(1) The Provincial Council shall furnish such reports, copies of its minutes and of the minutes of the Executive Committee, and abstracts of its accounts to the Provincial Government as the Provincial Government may from time to time require and copies thereof shall be sent to the Central Council.

(2) The Provincial Government may publish, in such manner as it may think fit, any report, copy, abstract or other information furnished to it under this section.

CHAPTER IV

REGISTRATION OF PHARMACISTS

29. Preparation and maintenance of register.—(1) As soon as may be after this Chapter has taken effect in any Province, the Provincial Government shall cause to be prepared in the manner hereinafter provided a register of pharmacists for the Province.

(2) The Provincial Council shall as soon as possible after it is constituted assume the duty of maintaining the register in accordance with the provisions of this Act.

(3) The register shall include the following particulars, namely:—

(a) the full name and residential address of the registered person;

(b) the date of his first admission to the register;

(c) his qualification for registration;

(d) his professional address, and if he is employed by any person, the name of such person;

(e) such further particulars as may be prescribed.

30. Preparation of first register.—(1) For the purpose of preparing the first register, the Provincial Government shall by notification in the official Gazette constitute a Registration Tribunal consisting of three persons, and shall also appoint a Registrar who shall act as Secretary of the Registration Tribunal.

(2) The Provincial Government shall, by the same or a like notification, appoint a date on or before which application for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under section 31, shall direct the entry of the name of the applicant on the register.

(4) The first register so prepared shall thereafter be published in such manner as the Provincial Government may direct, and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register as so published may, within sixty days from the date of such publication, appeal to an authority appointed by the Provincial Government in this behalf by notification in the official Gazette.

(5) The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form.

(6) Upon the constitution of the Provincial Council, the register shall be given into its custody, and the Provincial Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the Provincial Council.

31. Qualifications for entry on first register.—A person shall be entitled on payment of the prescribed fee to have his name entered in the first register if he resides, or carries on the business or profession of pharmacy, in the Province and if he—

(a) holds a degree or diploma in pharmacy or pharmaceutical chemistry or a chemist and druggist diploma of an Indian University or a Provincial Government, as the case may be, or a prescribed qualification granted by an authority outside the Provinces of India, or

(b) holds a degree of an Indian University other than a degree in pharmacy or pharmaceutical chemistry, and has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than three years, or

(c) has passed an examination recognised as adequate by the Provincial Government for compounders or dispensers, or

(d) has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than five years prior to the date notified under sub-section (2) of section 30.

32. Qualifications for subsequent registration.—(1) After the date appointed under sub-section (2) of section 30 and before the Education Regulations have, by or under section 11, taken effect in the Province, a person shall on payment of the prescribed fee be entitled to have his name entered in the register if he resides or carries on the business or profession of pharmacy in the Province and if he—

(a) satisfies the conditions prescribed with the prior approval of the Central Council, or where no conditions have been prescribed, the conditions entitling a person to have his name entered on the first register as set out in section 31, or

(b) is a registered pharmacist in another Province, or

(c) possesses a qualification approved under section 14:

Provided that no person shall be entitled under this sub-section to have his name entered on the register unless he has passed a matriculation examination or an examination prescribed as being equivalent to a matriculation examination.

(2) After the Education Regulations have by or under section 11 taken effect in the Province, a person shall on payment of the prescribed fee be entitled to have his name entered on the register if he has attained the age of twenty one years, if he resides, or carries on the business or profession of pharmacy, in the Province and if he has passed an approved examination or possesses a qualification approved under section 14.

33. Scrutiny of applications for registration.—After the date appointed under sub-section (2) of section 30, applications for registration shall be addressed to the Registrar of the Provincial Council and shall be accompanied by the prescribed fee.

(2) If upon such application the Registrar is of opinion that the applicant is entitled to have his name entered in the register under the provisions of this Act for the time being applicable, he shall enter the name of the applicant in the register :

Provided that no person whose name has under the provisions of this Act been removed from the register of any Province shall be entitled to have his name entered in the register except with the approval of the Provincial Council recorded at a meeting.

(3) Any person whose application for registration is rejected by the Registrar, may within three months from the date of such rejection appeal to the Provincial Council, and the decision of the Provincial Council thereon shall be final.

(4) Upon entry in the register of a name under this section, the Registrar shall issue a certificate of registration in the prescribed form.

34. Renewal fees.—(1) The Provincial Government may by notification in the official Gazette, direct that for the retention of a name on the register after the 31st day of December of the year following the year in which the name is first entered on the register, there shall be paid annually to the Provincial Council such renewal fee as may be prescribed, and where such direction has been made, such renewal fee shall be due to be paid before the first day of April of the year to which it relates.

(2) Where a renewal fee is not paid by the due date, the Registrar shall remove the name of the defaulter from the register :

Provided that a name so removed may be restored to the register on such conditions as may be prescribed.

(3) On payment of the renewal fee, the Registrar shall in the prescribed manner endorse the certificate of registration accordingly.

35. Entry of additional qualifications.—A registered pharmacist shall on payment of the prescribed fee be entitled to have entered in the register any further degrees or diplomas in pharmacy or pharmaceutical chemistry which he may obtain.

36. Removal from register.—(1) Subject to the provisions of this section, the Executive Committee may order that the name of a registered pharmacist shall be removed from the register, where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make,—

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact, or

(ii) that he has been convicted of any offence or has been guilty of any infamous conduct in any professional respect, which in the opinion of the Executive Committee, renders him unfit to be kept in the Register, or

(iii) that a person employed by him for the purposes of his business of pharmacy has been convicted of any such offence or has been guilty of any such infamous conduct as would, if such person were a registered pharmacist, render him liable to have his name removed from the register under clause (ii) :

Provided that no such order shall be made under clause (iii) unless the

Executive Committee is satisfied—

(a) that the offence or infamous conduct was instigated or connived at by the registered pharmacist, or

(b) that the registered pharmacist has at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place committed a similar offence or been guilty of similar infamous conduct, or

(c) that any person employed by the registered pharmacist for the purposes of his business of pharmacy has at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place, committed a similar offence or been guilty of similar infamous conduct, and that the registered pharmacist had, or reasonably ought to have had, knowledge of such previous offence or infamous conduct, or

(d) that where the offence or infamous conduct continued over a period, the registered pharmacist had, or reasonably ought to have had, knowledge of the continuing offence or infamous conduct, or

(e) that where the offence is an offence under the Drugs Act, 1940 (XXIII of 1940), the registered pharmacist has not used due diligence in enforcing compliance with the provisions of that Act in his place of business and by persons employed by him.

(2) An order under sub-section (1) may direct that the person whose name is ordered to be removed from the register shall be ineligible for registration in the Province under this Act either permanently or for such period as may be specified.

(3) An order under sub-section (1) shall be subject to confirmation by the Provincial Council and shall not take effect until the expiry of three months from the date of such confirmation.

(4) A person aggrieved by an order under sub-section (1) which has been confirmed by the Provincial Council may, within thirty days from the communication to him of such confirmation, appeal to the Provincial Government, and the order of the Provincial Government upon such appeal shall be final.

(5) A person whose name has been removed from the register under this section or under sub-section (2) of section 34 shall forthwith surrender his certificate of registration to the Registrar, and the name so removed shall be published in the official Gazette.

37. Restoration to register.—The Provincial Council may at any time for reasons appearing to it sufficient order that upon payment of the prescribed fee the name of a person removed from the register shall be restored thereto :

Provided that where an appeal against such removal has been rejected by the Provincial Government, an order under this section shall not take effect until it has been confirmed by the Provincial Government.

38. Bar of *ouster* jurisdiction.—No order refusing to enter a name on the register or removing a name from the register shall be called in question in any Court.

39. Issue of duplicate certificates of registration.—Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate in the prescribed form.

40. Printing of register.—As soon as may be after the first day of April in each year the Registrar shall cause to be printed copies of the register as it stood on the said date, and such copies shall be made available to persons applying therefor on payment of the prescribed charge, and shall be evidence that on the said date the persons whose names are entered

therein were registered pharmacists.

CHAPTER V

MISCELLANEOUS.

41. Penalty for falsely claiming to be registered.—(1) If any person whose name is not for the time being entered in the register of the Province falsely pretends that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to five hundred rupees and on any subsequent conviction with imprisonment extending to six months or with fine not exceeding one thousand rupees or with both :

Provided that it shall be a defence to show that the name of the accused is entered in the register of another Province and that at the time of the alleged offence under this section an application for registration in the Province had been made.

(2) For the purposes of this section—

(a) it shall be immaterial whether or not any person is deceived by such pretence or use as aforesaid ;

(b) the use of the description “ pharmacist ”, “ chemist ”, “ druggist ” “ pharmacist ”, “ dispenser ”, “ dispensing chemist ”, or any combination of such words shall be deemed to be reasonably calculated to suggest that the person using such description is a person whose name is for the time being entered in the register of the Province ;

(c) the onus of proving that the name of a person is for the time being entered in the register of a Province shall be on him who asserts it.

(3) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by order of the Provincial Government or the Executive Committee of the Provincial Council.

42. Dispensing by unregistered persons.—(1) On or after such date as the Provincial Government may by notification in the official Gazette appoint in this behalf, no person other than a registered pharmacist shall compound, prepare, mix, or dispense any medicine on the prescription of a medical practitioner except under the direct and personal supervision of a registered pharmacist :

Provided that this sub-section shall not apply to the dispensing by a medical practitioner of medicine for his own patients, or with the general or special sanction of the Provincial Government, for the patients of another medical practitioner.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees or with both.

(3) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by an order of the Provincial Government.

43. Failure to surrender certificate of registration.—(1) If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of registration, he shall be punishable with fine which may extend to fifty rupees.

(2) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by an order of the Executive Committee.

44. Payment of part of fees to Central Council.—The Provincial Council shall before the end of June in each year pay to the Central Council a sum equivalent to one-fourth of the total fees realised by the Provincial Council under this Act during the period of twelve months ending on the 31st day of March of that year.

45. *Appointment of Commission of Enquiry.*—(1) Whenever it appears to the Central Government that the Central Council is not complying with any of the provisions of this Act, the Central Government may appoint a Commission of Enquiry consisting of three persons, two of whom shall be appointed by the Central Government, one being the Judge of a High Court, and one by the Council; and refer to it the matters on which the enquiry is to be made.

(2) The Commission shall proceed to enquire in such manner as it may deem fit and report to the Central Government on the matters referred to it together with such remedies, if any, as the Commission may like to recommend.

(3) The Central Government may accept the report or remit the same to the Commission for modification or reconsideration.

(4) After the report is finally accepted, the Central Government may order the Central Council to adopt the remedies so recommended within such time as may be specified in the order and if the Council fails to comply within the time so specified, the Central Government may pass such order or take such action as may be necessary to give effect to the recommendations of the Commission.

(5) Whenever it appears to the Provincial Government that the Provincial Council is not complying with any of the provisions of this Act, the Provincial Government may likewise appoint a similar Commission of Enquiry and pass such order or take such action as specified in sub-sections (3) and (4).

46. *Power to make rules.*—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry out the purposes of Chapters III, IV and V.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

(a) the management of the property of the Provincial Council, and the maintenance and audit of its accounts;

(b) the manner in which elections under Chapter III shall be conducted;

(c) the summoning and holding of meetings of the Provincial Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to form a quorum;

(d) the powers and duties of the President and Vice-President of the Provincial Council;

(e) the constitution and functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum;

(f) the qualifications, the term of office and the powers and duties of the Registrar and other officers and servants of the Provincial Council, including the amount and nature of the security to be given by the Treasurer;

(g) the particulars to be stated, and the proof of qualifications to be given, in applications for registration under Chapter IV;

(h) the conditions for registration under sub-section (1) of section 32;

(i) fees payable under Chapter IV and the charge for supplying copies of the register;

(j) the form of certificates of registration and the manner of endorsement of renewals thereof;

(k) the maintenance of a register;

(l) any other matter which is to be or may be prescribed under Chapters III, IV and V except sub-sections (1), (2), (3) and (4) of section 45.

The Dock Workers (Regulation of Employment) Act, 1948.

Received the assent of the Governor-General on the 4th March 1948 and is published in the *Gazette of India, Extraordinary*, dated the 4th March 1948.

Act No. IX of 1948

to provide for regulating the employment of dock workers.

WHEREAS it is expedient to provide for regulating the employment of dock workers ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Dock Workers (Regulation of Employment) Act, 1948.

(2) It extends to all the Provinces of India.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “ cargo ” includes anything carried or to be carried in a ship or other vessel ;

(b) “ Dock worker ” means a person employed or to be employed in, or in the vicinity of, any port on work in connection with the loading, unloading, movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving port ;

(c) “ employer ”, in relation to a dock worker, means the person by whom he is employed or to be employed as aforesaid ;

(d) “ Government ” means, in relation to any major port, the Central Government and, in relation to any other port, the Provincial Government :

(e) “ scheme ” means a scheme made under this Act.

3. *Scheme for ensuring regular employment of workers.*—(1) Provision may be made by a scheme for the registration of dock workers with a view to ensuring greater regularity of employment and for regulating the employment of dock workers, whether registered or not, in a port.

(2) In particular, a scheme may provide—

(a) for the application of the scheme to such classes of dock workers and employers as may be specified therein ;

(b) for defining the obligations of dock workers and employers subject to the fulfilment on which the scheme may apply to them and the circumstances in which the scheme shall cease to apply to any dock workers or employers ;

(c) for regulating the recruitment and entry into the scheme of dock workers, and their registration, including the maintenance of registers, the removal, either temporarily, or permanently, of names from the registers and the imposition of fees for registration ;

(d) for regulating the employment of dock workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof ;

(e) for securing that, in respect of periods during which employment, or full employment, is not available for dock workers to whom the scheme applies and who are available for work, such workers will, subject to the conditions of the scheme, receive a minimum pay ;

(f) for prohibiting, restricting or otherwise controlling the employment of dock workers to whom the scheme does not apply and the employment of dock workers by employers to whom the scheme does not apply ;

(g) for the training and welfare of dock workers, in so far as satisfactory provision therefor does not exist apart from the scheme ;

(h) for health and safety measures in places where dock workers are employed, in so far as satisfactory provision therefor does not exist apart from the scheme ;

(i) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed ;

(j) for constituting or prescribing the authority to be responsible for the administration of the scheme ;

(k) for such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

(3) A scheme may further provide that a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

4. *Making, variation and revocation of schemes.*—(1) The Government may, by notification in the official Gazette and subject to the condition of previous publication, make one or more schemes for a port or group of ports, and may in the like manner and subject to the like condition add to, amend, vary or revoke any scheme made by it.

(2) The provisions of section 23 of the General Clauses Act, 1897 (X of 1897) shall apply to the exercise of a power given by sub-section (1) as they apply to the exercise of a power given by a Central Act to make rules subject to the condition of previous publication.

(3) The Government may direct the port authority of any port to prepare, in accordance with such instructions as may from time to time be given to it, one or more draft schemes for the port, and the port authority shall comply with such direction.

5. *Advisory Committees.*—(1) The Government may, or if it decides to make any scheme under section 4, shall, constitute an Advisory Committee, to advise upon such matters arising out of the administration of this Act or any scheme made thereunder as the Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the Government, and shall be of such number (not exceeding fifteen) and chosen in such manner as may be prescribed by rules made under sub-section (5) :

Provided that the Advisory Committee shall include an equal number of members representing—

(i) the Government,

(ii) the dock workers,

(iii) the employers of dock workers.

(3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the Government, nominated in this behalf by the Government.

(4) The Government shall publish in the official Gazette the names of all members of the Advisory Committee.

(5) The Government may, by notification in the official Gazette, make rules to provide for—

(a) the composition of the Advisory Committee;

(b) the manner in which its members shall be chosen ;

(c) the term of office of its members ;

(d) the allowances, if any, payable to the members of the Committee ;

(e) the manner in which the Committee shall conduct its business, including the number of members to be present at a meeting thereof in order to constitute a quorum.

6. *Inspectors.*—(1) The Government may, by notification in the official

Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, at such ports as may be specified in the notification.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (XLV of 1860).

(3) An Inspector may, at any port for which he is appointed,—

(a) enter, with such assistance (if any) as he thinks fit, any premises or vessel where dock workers are employed :

(b) require any authority or person to produce any register, muster-roll or other document relating to the employment of dock workers, and examine such document ;

(c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of any scheme made for the port are, or have been, complied with.

(4) The Government may, by notification in the official Gazette, prescribe the manner in which and the persons by whom complaints regarding contravention of any provision of a scheme may be made to an Inspector and the duties of the Inspector in relation to such complaints.

7. *Cognizance of offences.*—(1) No Court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a report in writing of the facts constituting such offence or abetment made by an Inspector or by a person specially authorised in this behalf by the Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence made punishable by a scheme or an abetment thereof shall be triable only by a Presidency Magistrate or a Magistrate of the first class.

The Insurance (Amendment) Act, 1948.

Received the assent of the Governor General on the 8th March 1948 and is published in the *Gazette of India, Extraordinary*, dated the 8th March 1948.

Act No X of 1948.

An Act further to amend the Insurance Act, 1938.

WHEREAS it is expedient further to amend the Insurance Act, 1938 (IV of 1938), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Insurance (Amendment) Act, 1948.

2. *Amendment of section 4, Act IV of 1938.*—In sub-section (1) of section 4 for the words beginning with the words “No Insurer” and ending with the words “shall pay” the words and figures “No Insurer, not being a Co-operative Life Insurance Society to which Part IV of the Insurance Act, 1938 applies, shall pay” shall be substituted.

The Minimum Wages Act, 1948.

Received the assent of the Governor General on the 15th March 1948 and is published in the *Gazette of India, Extraordinary*, dated the 15th March 1948.

Act No. XI of 1948.

An Act to provide for fixing minimum rates of wages in certain employments.

WHEREAS it is expedient to provide for fixing minimum rates of wages in certain employments ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Minimum Wages Act, 1948.

(2) It extends to all the Provinces of India.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “adult”, “adolescent” and “child” have the meanings respectively assigned to them in section 2 of the Factories Act, 1934 (XXV of 1934);

(b) “appropriate Government” means—

(i) in relation to any scheduled employment carried on by or under the authority of the Central Government, by the Federal railway authority, or a railway company operating a Federal railway or in relation to a mine, oilfield or major port, or any corporation established by an Act of the Central Legislature, the Central Government; and

(ii) in relation to any other scheduled employment, the Provincial Government;

(c) “competent authority” means the authority appointed by the appropriate Government by notification in its official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(a) “cost of living index number” in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by the competent authority by notification in the official Gazette to be the cost of living index number applicable to employees in such employment;

(c) “employer” means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,—

(i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934), as manager of the factory;

(ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the Department;

(iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;

(f) prescribed means prescribed by rules made under this Act;

(g) scheduled employment means an employment specified in the Schedule, or any process or branch of work forming part of such employment;

(h) “wages” means all remuneration capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

(i) the value of—

(a) any house-accommodation, supply of light, water, medical attendance, or;

(b) any other amenity or any service excluded by general or special order of the appropriate Government ;

(ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any Scheme of social insurance ;

(iii) any travelling allowance or the value of any travelling concession ;

(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or

(v) any gratuity payable on discharge ;

(i) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed ; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person ; and also includes an employee declared to be an employee by the appropriate Government ; but does not include any member of the armed forces of the Crown.

3. Fixing of minimum rates of wages.—(1) The appropriate Government shall, in the manner hereinafter provided,—

(a) fix, before the expiry of three years in the case of an employment specified in Part II of the Schedule, or two years in any other case, from the commencement of this Act or, as the case may be, from the date of the notification under section 27 including the employment in the Schedule, the minimum rates of wages payable to employees employed in all scheduled employments ;

(b) review at such intervals as it may think fit, such intervals not to exceed five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary ;

Provided that the appropriate Government shall not be required to fix minimum rates of wages in respect of any scheduled employment in which there are in the whole Province less than one thousand employees engaged in such employment.

(2) The appropriate Government may fix—

(a) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate") ;

(b) a minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate") ;

(c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate") ;

(d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate") ;

(3) In fixing or revising minimum rates of wages under this section,—

(a) different minimum rates of wages may be fixed for ;

(i) different scheduled employments ;

(ii) different classes of work in the same scheduled employment ;

(iii) adults, adolescents, children and apprentices ;

(iv) different localities ;

(b) minimum rates of wages may be fixed by the hour, by the day or by any larger wage period as may be prescribed :

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (IV of 1936), minimum wages shall be fixed in accordance therewith.

4. *Minimum rate of wages.*—(1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of—

(i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the “cost of living allowance”); or

(ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or

(iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

5. *Procedure for fixing minimum wages.*—(1) In fixing minimum rates of wages in respect of any Scheduled employment for the first time under this Act, the appropriate Government shall either—

(a) appoint a committee to hold enquiries and advise it in this behalf with such sub-committees for different localities as it may deem expedient to appoint to assist such committee, or

(b) by notification in the official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the official Gazette, fix the minimum rates of wages in respect of each Scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

6. *Advisory Committees and sub-committees.*—For the purpose of revising minimum rates of wages fixed under this Act, the appropriate Government shall appoint as many advisory committees, and sub-committees as it considers necessary to enquire into the conditions prevailing in any Scheduled employment and to advise the appropriate Government in making such revision in respect of that employment.

7. *Advisory Board.*—For the purpose of co-ordinating the work of committees, sub-committees, advisory committees and advisory sub-committees appointed under sections 5 and 6 and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an advisory Board.

8. *Central Advisory Board.*—(1) For the purpose of advising the Central and Provincial Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board.

(2) The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent

persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.

9: *Composition of committees, etc.*—Each of the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate Government.

10. *Procedure for revision of minimum rates of wages.*—(1) Before revising any minimum wages fixed under this Act, the appropriate Government shall consult all advisory committees appointed under section 6 to inquire into the conditions prevailing in the scheduled employment concerned, and the Advisory Board also.

(2) Revisions of minimum wages shall be notified by the appropriate Government in the official Gazette, and unless the notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

11. *Wages in kind.*—(1) Minimum wages payable under this Act shall be paid in cash.

(2) Where it has been the custom to pay wages wholly or partly in kind, the appropriate Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the official Gazette, authorise the payment of minimum wages either wholly or partly in kind.

(3) If the appropriate Government is of the opinion that provision should be made for the supply of essential commodities at concession rates, the appropriate Government may, by notification in the official Gazette, authorise the provision of such supplies at concession rates.

(4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

12. *Payment of minimum rates of wages.*—(1) Where in respect of any scheduled employment a notification under section 5 or section 10 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (IV of 1936).

13. *Fixing hours for a normal working day, etc.*—In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

(a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

14. *Overtime.*—(1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate

fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of section 47 of the Factories Act, 1934 (XXV of 1934) in any case where those provisions are applicable.

15. Wages of worker who works for less than normal working day.—If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day:

Provided, however, that he shall not be entitled to receive wages for a full normal working day—

(i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and

(ii) in such other cases and circumstances as may be prescribed.

16. Wages for two or more classes of work.—Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively, occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

17. Minimum time rate wages for piece work.—Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the minimum time rate.

18. Maintenance of registers and records.—(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them, and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars.

(3) The appropriate Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

19. Inspectors.—(1) The appropriate Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed—

(a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Crown or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein ;

(c) require any person giving out-work and any out-workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work ;

(d) take copies of any register, record of wages or notices or of any portions thereof ; and

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

20. *Claims.*—(1) The appropriate Government may, by notification in the official Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages to employees employed or paid in that area.

(2) Where an employee is paid less than the minimum rates of wages fixed for his class of work under this Act, the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3) :

Provided that every such application shall be presented within six months from the date on which the minimum wages become payable :

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or give them an opportunity of being heard, and after such further enquiry if any as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the Authority may think fit, not exceeding ten times the amount of such excess and the authority may direct payment of such compensation in cases where the excess is paid by the employer to the employee before the disposal of the application.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the Authority under this section shall be final.

(7) Every Authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance

of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

21. Single application in respect of a number of employees.—(1) A single application may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess.

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

22. Penalties and procedure.—(1) Any employer who pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act, or infringes any order or rules made under section 13, shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both:

Provided that in imposing any fine for an offence under this sub-section, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.

(2) Any employer who fails to maintain a register or record required to be maintained under section 18 shall be punishable with fine which may extend to five hundred rupees.

(3) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1), unless an application in respect of the facts constituting the offence has been presented under section 20 and has been granted wholly or in part, and the Authority granting such application has sanctioned the making of the complaint.

(4) No Court shall take cognizance of an offence under sub-section (2) except on a complaint made by, or with the sanction of, an Inspector.

(5) No Court shall take cognizance of an offence—

(a) under sub-section (1), unless complaint thereof is made within one month of the grant of sanction under sub-section (3);

(b) under sub-section (2) unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

23. Exemption of employer from liability in certain cases.—Where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged;

Provided that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness,

if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

24. Bar of suits.—No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

(a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff, or

(b) has formed the subject of a direction under that section in favour of the plaintiff, or

(c) has been adjudged in any proceeding under that section not to be due to the plaintiff, or

(d) could have been recovered by an application under that section.

25. Contracting out.—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

26. Exemptions and exceptions.—(1) The appropriate Government may, subject to such conditions if any as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) The appropriate Government may, if for special reasons it thinks so fit, by notification in the official Gazette direct that for such period as it may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

(3) Nothing in this Act shall apply, to the wages payable by an employer to a member of his family who is living with him and is dependant on him.

Explanation.—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

27. Power of Provincial Government to add to Schedule.—The appropriate Government, after giving by notification in the official Gazette not less than three months' notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the Province be deemed to be amended accordingly.

28. Power of Central Government to give directions.—The Central Government may give directions to a Provincial Government as to the carrying into execution of this Act in the Province.

29. Power of the Central Government to make rules.—The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules prescribing the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board.

30. Power of appropriate Government to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules for carrying out the purposes of this Act;

(2) without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the term of office of the members, the procedure to be followed in the conduct of business, the method of voting; the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees, sub-committees, advisory committees, advisory sub-committees, and the Advisory Board ;

(b) prescribe the method of summoning witnesses, production of documents relevant to the subject-matter of the enquiry before the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board ;

(c) prescribe the mode of computation of the cash value of wages in kind and of concession, in respect of supplies of essential commodities at concession rates ;

(d) prescribe the time and conditions of payment of, and the deductions permissible from, wages ;

(e) provide for giving adequate publicity to the minimum rates of wages fixed under this Act ;

(f) provide for a day of rest in every period of seven days and for the payment of remuneration in respect of such day ;

(g) prescribe the number of hours of work which shall constitute a normal working day ;

(h) prescribe the cases and circumstances in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day ;

(i) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records ;

(j) provide for the issue of wage books and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips ;

(k) prescribe the powers of Inspectors for purposes of this Act ;

(l) regulate the scale of costs that may be allowed in proceedings under section 20 ;

(m) prescribe the amount of court-fees payable in respect of proceedings under section 20 ; and

(n) provide for any other matter which is to be or may be prescribed.

THE SCHEDULE

[See sections 2 (g) and 27]

PART I

1. Employment in any woollen carpet making or shawl weaving establishment.

2. Employment in any rice mill, flour mill or dal mill.

3. Employment in any tobacco (including bidi making) manufactory.

4. Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.

5. Employment in any oil mill.

6. Employment under any local authority.

7. Employment on road construction or in building operations.

8. Employment in stone breaking or stone crushing.

9. Employment in any lac manufactory.

10. Employment in any mica works.

11. Employment in public motor transport.

12. Employment in tanneries and leather manufactory.

PART II

1. Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural

commodity, the raising of live-stock, bees or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).

The Rehabilitation Finance Administration Act, 1948.

Received the assent of the Governor General on the 23rd March 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 23rd March 1948.

Act No. XII of 1948:

An Act to establish the Rehabilitation Finance Administration.

WHEREAS it is expedient to establish a Rehabilitation Finance Administration for the purpose of giving financial assistance on reasonable terms to displaced persons to enable them to settle in business or industry;

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Rehabilitation Finance Administration Act, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) 'Act' means the Rehabilitation Finance Administration Act, 1948;

(b) 'Administration' means the Rehabilitation Finance Administration constituted under this Act;

(c) 'borrower' means an individual, company, association or body of individuals, whether incorporated or not, to whom a loan has been advanced under this Act;

(d) 'displaced person' means—

(i) a person who, being displaced from any area outside India on account of civil disturbances or fear of such disturbances, has settled and is engaged or intends to engage in any business or industry in India, or

(ii) a person in India who, having had his business, industry or property, wholly or partially outside India, has lost, wholly or partially, such business, industry, or property on account of civil disturbances or the fear of such disturbances, and who is engaged, or intends to engage in any business or industry in India;

(e) 'loan' means a sum of money advanced by the Administration to a displaced person for business or industry; and

(f) 'prescribed' means prescribed by rules made under section 23 or regulations made under section 24.

3. *Establishment and incorporation.*—(1) The Central Government shall constitute a Corporation called the Rehabilitation Finance Administration for giving financial assistance on reasonable terms to displaced persons to enable them to settle in business and industry,

(2) The Corporation shall be a body corporate by the name of the Rehabilitation Finance Administration having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and transfer property, both moveable and immovable, and shall by the said name sue and be sued.

(3) The Administration shall have its head office at Delhi and may with the previous approval of the Central Government, open branches at such places in India as it may consider necessary to discharge effectively its functions under this Act.

4. *Constitution of the Administration.*—(1) The Administration shall consist of the following members, namely:—

(a) a Chairman to be appointed by the Central Government who shall be called the Chief Administrator ;

(b) three officials appointed by the Central Government ; and

(c) three non-officials nominated by the Central Government.

(2) No act done by the Administration shall be called in question on the ground merely of the existence of any vacancy or any defect in the constitution of the Administration.

5. *Advisory Board.*—(1) The Central Government shall constitute an Advisory Board to advise the Administration on matters of policy and may where necessary constitute a Regional Committee to advise each branch of the Administration.

(2) The Advisory Board shall consist of such members, not exceeding fifteen in number, as may be nominated by the Central Government.

6. *Terms of office of the members of the Administration and the Advisory Board.*—(1) A member appointed under clauses (a) and (b) of sub-section (1) of section 4 shall hold office during the pleasure of the Central Government.

(2) A member nominated under clause (c) of sub-section (1) of section 4 or sub-section (2) of section 5 shall hold office for a term of two years from the date of his nomination and shall be eligible for re-nomination.

(3) A nominated member may resign his membership by writing under his hand addressed to the Central Government and he shall thereupon cease to be a member.

(4) A casual vacancy created by resignation under sub-section (3) or by any other reason shall be filled by fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated.

7. *Disclosure of interest.*—(1) No member of the Administration shall have any interest, direct or indirect, in any business, industry or concern to which any assistance under section 12 has been given or is to be given and if any such member acquires such interest at any time during the continuance of such assistance, he shall immediately disclose it to the Administration and shall either resign his membership or dispose of his interest in such manner and within such time as he may be directed by it.

(2) Any member of the Advisory Board who has any interest, direct or indirect, in any business, industry or concern to which any assistance under section 12 has been given or is to be given or acquires such interest at any time during the continuance of such assistance shall immediately disclose it to the Administration and shall not participate in the proceedings of the Advisory Board relating to such assistance.

8. *Removal from membership.*—Notwithstanding anything contained in section 6, the Central Government may, for any reason which may appear to it to be sufficient, remove any member at any time from the Administration or the Advisory Board.

9. *The Chief Administrator.*—The Chief Administrator shall be a whole time servant of the Administration and shall receive such salaries and allowances and shall be subject to such terms and conditions as may be determined by the Central Government.

10. *Staff.*—The Administration may, in the manner prescribed and with the prior sanction of the Central Government,—

(a) appoint a Deputy Chief Administrator and such other officers and servants as may be required to enable it to carry out the functions under this Act ;

(b) fix the salary and allowances or other conditions of service of the Deputy Chief Administrator, other officers and servants ;

(c) fix the remuneration and allowances payable to the members of the

Administration and of the Advisory Board.

11. *Funds of the Administration.*—(1) The Central Government may from time to time advance money for the business of the Administration, the aggregate amount of which shall not exceed ten crores of rupees.

(2) All monies belonging to the Administration shall be deposited in the Reserve Bank of India or any agents thereof or invested in such securities as may be approved by the Central Government.

(3) The Administration shall pay interest on the money so advanced at the rate of 3 per cent. per annum to the Central Government.

12. *Business of the Administration.*—The Administration may—

(a) subject to the provisions of section 13 advance loans not exceeding an aggregate amount of seven crores of rupees;

(b) re-discount bills of exchange and promissory notes in respect of loans advanced to a displaced person by a scheduled bank or a syndicate of banks up to an aggregate amount of one crore of rupees; and

(c) guarantee part of the losses, not exceeding 50 per cent. of the loss in any case, which a scheduled bank or a syndicate of banks may suffer in respect of any loan advanced to a displaced person with the approval of the administration: provided that the maximum liability incurred under such guarantees shall not at any time in the aggregate exceed two crores of rupees.

13. *Loans.*—(1) The Central Government may prescribe the limits as to amounts within which loans may be advanced by the Administration.

(2) For the purpose of advancing any loan under sub-section (1), the Administration may call for any report either through its own staff, or through the District Officer of the district in which the borrower resides or carries on business, or through any provincial or a State Government, or through any Bank or any other appropriate agency.

(3) The Administration shall charge interest from the borrower at such rate not exceeding 6 per cent. per annum as may be specified by it.

(4) The period of the loan shall not exceed ten years.

(5) The loan may be advanced either for fixed capital or working capital or for both:

The assets created from the loan shall, notwithstanding any law or usage to the contrary, be deemed to be mortgaged to the Administration for the repayment of the loan together with the interest thereon and the amount of the loan and the interest thereon shall be first charge on such assets.

The Administration may also take such further security for any loan as it may consider necessary.

14. *Power to call for repayment before agreed period.*—Notwithstanding any agreement to the contrary, the Administration may, by notice, require any borrower forthwith to repay in full with interest thereon any loan borrowed from it,—

(a) if it appears to the Administration that false or misleading information in any material particular was given by the borrower for obtaining the loan or while furnishing any information under section 17; or

(b) if the borrower has failed to comply with the terms of the contract with the Administration in the matter of the loan; or

(c) if there is a reasonable apprehension that the borrower is unable to pay his debts or that insolvency proceedings or proceedings for liquidation may be commenced against him; or

(d) if for any other reason it is necessary in the opinion of the Administration to protect the interests of the Administration.

15. *Mode of recovery.*—(1) If the amount of loan or any instalment thereof or interest thereon which is due, in accordance with the terms of the contract or under the provisions of section 14, has not been repaid the Administration may,—

(a) without prejudice to any other remedy provided by law, recover such loan, instalment or interest as arrears of land revenue, or

(b) take charge of the business or industry of the borrower on such terms and conditions as it may deem fit.

16. *Audit.*—(1) The affairs of the Administration shall be audited by one or more auditors qualified under section 144 of the Indian Companies Act, 1913 (VII of 1913), to act as auditors of companies, who shall be appointed by the Central Government on such remuneration as may be specified by it.

(2) An auditor so appointed shall hold office for a period of one year and shall be eligible for reappointment:

Provided that any casual vacancy in the office of an auditor shall be filled by the Central Government.

(3) Every auditor shall be supplied with a copy of the annual balance-sheet of the Administration, and it shall be his duty to examine it together with the accounts and vouchers relating thereto, and every auditor shall have a list delivered to him of all books kept by the Administration, and shall at all reasonable times have access to the books, accounts and other documents of the Administration, and may in relation to such accounts examine any officer of the Administration.

(4) The auditors shall make a report to the Central Government upon the annual balance-sheet and accounts, and in every such report they shall state whether in their opinion the balance-sheet is a full and true balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of affairs of the Administration, and in case they have called for any explanation or information from the Administration whether it has been given and whether it is satisfactory.

17. *Power of inspection.*—(1) The Chief Administrator or any other officer authorised by him in writing in this behalf may, by order require any borrower to furnish such information or to produce such books of accounts and other documents for inspection at such time and place as may be specified in the order and the borrower shall comply with such order.

(2) The Chief Administrator or such officer may inspect such books of accounts or documents produced and take extracts therefrom.

(3) The Chief Administrator or the officer making the inspection or any person working under his order shall not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the borrower.

(4) If any person contravenes the provisions of sub-section (1) or sub-section (3) he shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

18. *Returns.*—(1) The Administration shall furnish to the Central Government a half yearly report together with accounts and such other information within such time and in such manner as may be specified by the Central Government.

(2) The report shall be laid before the Central Legislature as soon as may be after it is prepared.

19. *Power of Central Government to give direction.*—For the purposes of this Act, the Central Government may, from time to time, give to the Administration such general or special directions as it thinks fit, and the Administration shall, in the exercise of its functions under this Act, comply with any such directions.

20. *Exemption from taxes.*—Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), or in any other enactment for the

time being in force relating to Income-tax, super-tax or business profits tax, the Administration shall not be liable to pay any income-tax, supertax or business profits tax on any incomes, profits or gains.

21. *Liquidation of the Administration.*—(1) No provisions of law relating to insolvency or to the winding up of companies or corporation shall apply to the Administration and the Administration shall not be placed in liquidation save by the order of the Central Government and in such manner as it may direct.

(2) In the event of the Administration being placed in liquidation, the assets of the Administration, after meeting the liabilities, if any, shall vest in the Central Government and the Central Government shall thereupon have all the powers of the Administration in recovering the loans remaining unpaid.

22. *Delegation.*—The Administration may, by notification in the official Gazette, direct that any power or duty which under any of the provisions of this Act is conferred or imposed upon the Administration shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by the Chief Administrator, Deputy Chief Administrator or any other person subordinate to the Administration.

23. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

24. *Power to make regulations.*—(1) The Administration may, with the previous sanction of the Central Government make regulations, not inconsistent with this Act or the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulation may provide for—

(a) the conditions on which a person may be recognised as a displaced person,

(b) the manner and the time of the general meetings of the Administration, or Advisory Board or Regional Committee and the procedure to be followed thereat and the manner in which a right of voting may be exercised,

(c) the terms on which the Administration may grant loans,

(d) forms of returns and statements required under this Act,

(e) the duties and conduct, salaries, allowances and conditions of service of officers, servants and agents of the Administration,

(f) manner and form of application for loans and contracts,

(g) manner in which accounts of the Administration shall be kept and audited,

(h) the manner in which and the conditions under which the business or industry of a person to whom a loan has been advanced may be taken charge of and administered under section 15,

(i) any other matter which has to be or may be specified under this Act.

(3) All regulations made under this section shall be published in the official Gazette and shall come into force on such date as may be specified therein.

The Railways (Transport of Goods) (Amendment) Act, 1948.

Received the assent of the Governor General on the 25th March 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 25th March 1948.

Act No. XIII of 1948.

An Act to amend the Railways (Transport of Goods) Act, 1947.

WHEREAS it is expedient to amend the Railway (Transport of Goods) Act, 1947 (XII of 1947), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Railways (Transport of Goods) (Amendment) Act, 1948.

2. *Amendment of section 1, Act XII of 1947.*—In sub-section (3) of section 1 of the Railways (Transport of Goods) Act, 1947 (hereinafter referred to as the said Act), for the words “for one year only” the words “up to the 26th day of March, 1949” shall be substituted.

3. *Amendment of section 2, Act XII of 1947.*—In sub-section (2) of section 2 of the said Act, for the words beginning with “the Central Government” and ending with “a Chief Commissioner” the following words shall be substituted, namely:—

“the Central Government or any person authorised in writing in this behalf by that Government or with respect to items 10 and 17 of the Schedule by a Provincial Government or by a Chief Commissioner or by the Government of an Indian State.”

4. *Amendment of section 3, Act XII of 1947.*—In clause (a) of section 3 of the said Act,—

(a) after the word “preference”, the following words shall be inserted, namely:—

“subject to such wagon quotas as the Central Government or the person so authorised may fix,”

(b) after the word “or” occurring at the end, the following words shall be added, namely:—

“if the Central Government or the officer so authorised deems it necessary for reasons of urgent public interest so to do of any goods or category of goods not so specified, or”

5. *Substitution of new Schedule for the Schedule to Act XII of 1947.*—For the Schedule to the said Act the following Schedule shall be substituted, namely:—

“THE SCHEDULE.

(See section 3).

Serial No.	Description of goods	Conditions for special transport facilities or preference.
1.	Cattle food and cattle fodder ...	Nil.
2.	Coal and coke (other than Railway) when despatched from collieries ...	Nil.
3.	Cotton, silk and woollen piecegoods, blankets, twist yarn and cotton waste when consigned from mills or by mill agents ...	Nil.
4.	Empty containers for food, petroleum and other industrial products ...	Nil.
5.	Firewood and charcoal ...	Nil.
6.	Foodstuffs including fish and other perishables [tinned, canned, bottled, processed or packed including all grains and pulses, wheat products and flour of other grains and pulses, ghee, butter, cooking fats and edible vegetable oils, salt (other than hide salt), sugar, gur and jaggery] ...	Nil.

Serial No.	Description of goods.	Conditions for special transport facilities or preference.
7.	Livestock	Nil.
8.	Materials and stores of the Posts and Telegraphs Department	Nil.
9.	Medical stores, hospital equipment and pharmaceutical goods	Nil.
10.	Military or police stores and equipment	When transport is sponsored.
11.	Petroleum and all petroleum products	When consigned by oil companies and importers of petroleum products.
12.	Plant, materials and stores for maintenance and construction of buildings and roads, and for industrial and agricultural development projects, including the "Grow-More-Food" campaign, waterworks, irrigation, hydro-electric and sewage disposal schemes	Nil.
13.	Plant, stores, raw materials for and finished products of the following major industries—: Cement. Chemical. Collieries. Distilleries. Fertiliser factories. Iron and steel. Jute. Match factories. Non-ferrous and alloy factories. Paper. Rice and flour mills. Sugar. Textile ginning and pressing mills. Vegetable ghee (Vanaspati) and vegetable oil.	Nil.
14.	Plant, stores and raw materials for and finish products of the following important industries :— Bobbin factories. Bonemills. Cigarettes, cigar and tobacco factories. Electrical industries and electricity supply undertakings. Glass and ceramic factories. Mining industry. Oil companies. Ordnance factories. Paint and varnish factories. Printing, stationery and newsprint. Refractory brick factories.	Nil.

Serial No.	Description of goods.	Conditions for special transport facilities or preference.
	Rubber factories.	
	Soap factories.	
	Starch factories.	
	Tanneries and leather, boot and shoe factories.	
	Tea gardens.	
15.	Railway coal, material, stores and equipment ...	Nil.
16.	Raw cotton, wool and silk. ...	Nil.
17.	Stores including medical stores for relief in times of famine or other emergency ...	When transport is sponsored.
18.	Wagons required for the direct loading and unloading of ships in the port area. ...	Nil."

The Damodar Valley Corporation Act, 1948.

Received the assent of the Governor General on the 27th March 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 27th March 1948.

Act No. XIV of 1948.

An Act to provide for the establishment and regulation of a Corporation for the development of the Damodar Valley in the Provinces of Bihar and West Bengal.

WHEREAS it is expedient to provide for the establishment and regulation of a Corporation for the development of the Damodar Valley in the Provinces of Bihar and West Bengal ;

AND WHEREAS in pursuance of section 103 of the Government of India Act, 1935 (26 Geo. 5, c. 2), resolutions have been passed by all the Chambers of the Provincial Legislatures of the said Provinces to the effect that certain matters dealt with in this Act which are enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Dominion Legislature ;

It is hereby enacted as follows :—

PART I.

INTRODUCTORY

1. *Short title, extent and commencement* —(1) This Act may be called the Damodar Valley Corporation Act, 1948.

(2) It extends to the Provinces of Bihar and West Bengal.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) "Corporation" means the Damodar Valley Corporation ;

(2) "Damodar Valley" includes the basin of the Damodar river and its tributaries ;

(3) "member" means a member of the Corporation and includes the Chairman ;

(4) "Participating Governments" means the Central Government, the Provincial Government of Bihar and the Provincial Government of West Bengal ;

(5) "prescribed" means prescribed by rules made under section 59 ;

(6) "Provincial Government" means the Government of Bihar or as the case may be of West Bengal and "Provincial Governments" means the

Governments of Bihar and of West Bengal ;

(7) "regulations" means the regulations made by the Corporation under section. 60.

PART II

ESTABLISHMENT OF THE CORPORATION

3. *Incorporation*.—(1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be established a Corporation by the name of the Damodar Valley Corporation.

(2) The said Corporation shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.

4. *Constitution of the Corporation*.—(1) The Corporation shall consist of a Chairman and two other members appointed by the Central Government after consultation with the Provincial Governments.

(2) A person shall be disqualified for being appointed, or for continuing as, a member of the Corporation—

(a) if he is a member of the Central or any Provincial Legislature ; or

(b) if he has, directly or indirectly, any interest in a subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company provided that where he is a shareholder, he shall disclose to the Government the nature and extent of shares held by him in such Company.

(3) No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the appointment of a member thereof.

5. *Conditions of service of members*.—(1) Every member shall be a whole time servant of the Corporation.

(2) The remuneration and other conditions of service of the members shall be such as may be prescribed.

6. *Appointment of officers and servants*.—(1) The secretary and the financial adviser of the Corporation shall be appointed by the Central Government.

(2) The secretary shall be the chief executive officer of the Corporation.

(3) The Corporation may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

7. *Conditions of service of officers and servants*.—The pay and other conditions of service of the officers and servants of the Corporation shall—

(a) as respects the secretary and financial adviser, be such as may be prescribed ; and

(b) as respects the other officers and servants, be such as may be determined by regulations.

8. *Functions and duties of the financial adviser*.—The functions and duties of the financial adviser shall be such as may be prescribed.

9. *General disqualification of all officers and servants*.—No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract, by or on behalf of the Corporation, or in any employment under, by or on behalf of the Corporation otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Corporation.

10. *Appointment of Advisory Committee*.—Subject to any rules made under Section 59 the Corporation may from time to time appoint one or more Advisory Committees for the purpose of securing the efficient discharge of the functions of the Corporation, and in particular for the purpose of securing that those functions are exercised with due regard to the circumstances and requirements of particular local areas.

PART III

FUNCTIONS AND POWERS OF THE CORPORATION.

General

11. *Limits of Damodar Valley and area of operation.*—(1) The Central Government shall, by notification in the official Gazette, specify the limits of the Damodar Valley.

(2) The Corporation shall carry out all or any of its functions and exercise all or any of its powers within the Damodar Valley.

(3) The Central Government may, after consultation with the provincial Governments, by notification in the official Gazette, direct that the Corporation shall carry out such function and exercise such power in such other area as may be specified therein and the area so specified shall be called the "area of operation" of the Corporation.

12. *Functions of the Corporation.*—The functions of the Corporation shall be—

(a) the promotion and operation of schemes for irrigation, water supply and drainage,

(b) the promotion and operation of schemes for the generation, transmission and distribution of electrical energy, both hydro-electric and thermal,

(c) the promotion and operation of schemes for flood control in the Damodar river and its tributaries and the channels, if any, excavated by the Corporation in connection with the scheme and for the improvement of flow conditions in the Hooghly river,

(d) the promotion and control of navigation in the Damodar river and its tributaries and channels, if any,

(e) the promotion of afforestation and control of soil erosion in the Damodar Valley, and

(f) the promotion of public health and the agricultural, industrial, economic and general well-being in the Damodar Valley and its area of operation.

Irrigation and water-supply.

13. *Provision for irrigation and water-supply.*—The Corporation may, with the approval of the Provincial Government concerned which shall not be unreasonably withheld, construct canals and distributaries and maintain and operate them :

Provided that the Provincial Government may, after giving notice and subject to the payment of fair compensation, take over the maintenance and operation of any such canal or distributary.

14. *Rates for supply of water for irrigation.*—(1) The Corporation may, after consultation with the Provincial Government concerned, determine and levy rates for the bulk supply of water to that Government for irrigation, and fix the minimum quantity of water which shall be made available for such purpose.

(2) The rates at which such water shall be supplied by the Provincial Government to the cultivators and other consumers shall be fixed by that Government after consultation with the Corporation.

15. *Rates for supply of water for industrial and domestic purposes.*—The Corporation may determine and levy rates for bulk-supply and retail distribution of water for industrial and domestic purposes and specify the manner of recovery of such rates.

16. *Supply of water to those whose supply has been stopped or reduced.*—If, with a view to operating its schemes, the Corporation has stopped or reduced the supply of water to any person for agricultural, industrial or domestic purposes which such person was, prior to such stoppage or reduction, enjoying by virtue of any prescriptive right, the Corporation shall arrange such supply of water on the same terms as before.

17. *Construction of dam, etc., prohibited except with approval of the Corporation.*—Save as otherwise prescribed, no person shall construct, operate or maintain in the Damodar Valley any dam or other work or any installation for the extraction of water without the consent of the Corporation.

Supply and generation of electrical energy.

18. *Supply and generation of electrical energy.*—Notwithstanding anything contained in the Indian Electricity Act, 1910 (IX of 1910) or any licence granted thereunder—

No person shall without the permission of the Corporation—

(a) sell electrical energy to any consumer in the Damodar Valley where the energy is taken by the consumer at a pressure of 30,000 volts or more;

(b) transmit electrical energy in the Damodar Valley at a pressure of 30,000 volts or more;

(c) generate any electrical energy at an installation having an aggregate capacity of more than 10,000 kilowatts in any part of the Damodar Valley lying to the north of a straight line drawn east to west passing through a point at latitude twenty-two degrees, fourteen minutes and forty seven seconds and longitude eighty-seven degrees, fifty-one minutes and forty two seconds except such portion of the municipal area of Burdwan as may lie to the north of such straight line :

Provided that nothing in sub-clause (c) shall apply to any person who was at the commencement of this Act, generating electrical energy at an installation having an aggregate capacity of more than 10,000 kilowatts, so long as the capacity of such installation is not increased :

Provided further that nothing in sub-clause (c) shall apply to the power station installation of the fertiliser factory at Sindri having an aggregate capacity of 80,000 kilowatts so long as the capacity of such installation is not increased beyond 80,000 kilowatts.

(i) The Corporation may sell electrical energy to any consumer in the Damodar Valley but no such sale shall, except with the permission of the Provincial Government concerned, be made to any consumer requiring supply at a pressure of less than 30,000 volts.

(ii) The Corporation may, with the permission of the Provincial Government concerned, extend its transmission system to any area beyond the Damodar Valley and sell electrical energy in such area.

19. *Effect on existing licences.*—(1) Where any licence granted under the Indian Electricity Act, 1910 (IX of 1910), becomes inoperative wholly or partly by virtue of the provisions of section 18, the licence shall be deemed to have been revoked or modified so as to be consistent with those provisions.

(2) Where a licence is deemed to have been revoked under sub-section, (1) the Corporation shall purchase the undertaking of the licensee, and where a licence is modified under that sub-section, the Corporation shall, at the option of the licensee, either purchase the undertaking or pay fair compensation to the licensee.

(3) The purchase price or the amount of compensation payable by the Corporation under sub-section (2) shall be such as may be agreed to between the Corporation and the licensee or, in the event of disagreement, as may be determined by arbitration.

20. *Charges for supply of electrical energy.*—The Corporation shall fix the schedule of charges for the supply of electrical energy, including the rates for bulk supply and retail distribution, and specify the manner of recovery of such charges ;

Provided that the Corporation may in any contract for bulk supply of

electrical energy impose such terms and conditions including a retail rate schedule as it may deem necessary or desirable to encourage the use of electrical energy.

Other activities

12. Other activities of the Corporation.—(1) The Corporation may establish, maintain and operate laboratories, experimental and research stations and farms for conducting experiments and research for—

(a) utilising the water, electrical energy and other resources in the most economical manner for the development of the Damodar Valley,

(b) determining the effect of its operations on the flow conditions in the Hooghly river,

(c) making improvements in navigation conditions in the port of Calcutta, and

(d) carrying out any other function specified under section 12.

(2) The Corporation may set up its own planning, designing, construction and operating agencies, or make arrangements therefor with the participating Governments, local authorities, educational and research institutions or any person carrying on the business of an architect, an engineer or a contractor.

Powers

22. General powers of the Corporation.—(1) The Corporation shall have the power to do anything which may be necessary or expedient for the purposes of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing provision, such power shall include the power—

(i) to acquire and hold such movable and immovable property as it may deem necessary and to lease, sell or otherwise transfer any such property ;

(ii) to construct or cause to be constructed such dams, barrages, reservoirs, power houses, power structures, electrical transmission lines and sub-stations, navigation works, irrigation, navigation and drainage canals and such other works and structures as may be required ;

(iii) to prevent pollution of any water under its control and to take all measures to prevent discharges into such water effluents which are harmful to water supply, irrigation, public health or fish life ;

(iv) to stock its reservoirs or water courses with fish and to regulate or prohibit taking out fish from the water under its control ;

(v) to undertake resettlement of the population displaced by the dams, acquisition of land for reservoirs and protection of watersheds ;

(vi) to aid in the establishment of co-operative societies and other organisations for the better use of facilities made available by the Corporation ;

(vii) to undertake measures for the prevention of malaria.

23. Power to close roads and open spaces.—(1) The Corporation may, after giving notice to the persons concerned or to the public generally,—

(a) turn, divert or discontinue the public use of, or permanently close, any road or any part thereof, or

(b) discontinue the public use of, or permanently close, any open space or any part thereof.

(2) Whenever the Corporation discontinues the public use of, or permanently closes, any road or open space, the Corporation shall pay reasonable compensation to every person—

(a) who was entitled, otherwise than as a licensee, to use such road or open space or a part thereof as a means of access, or

(b) whose immovable property was receiving air and light on account of such open space or part,

and who has suffered damage—

(i) in any case falling under clause (a) from such discontinuance or closure and

(ii) in any case falling under clause (b) from the use to which the Corporation has put such open space or part.

(3) In determining the compensation payable to any person under sub-section (2), the Corporation may take into consideration any benefit accruing to such person from the construction, provision or improvement of any other road, or open space at or about the same time that the road or open space or part thereof, on account of which the compensation is to be paid, is discontinued or closed.

(4) When any road or open space or any part thereof, is permanently closed under sub-section (1), the Corporation may sell or lease such part of it as is not required for its purposes.

24. *Powers under certain other enactments.*—(1) Notwithstanding anything contained in the Acts specified in column one of Part I of the Schedule, the Corporation may carry out all or any of the functions and exercise all or any of the powers of a Provincial Government in the Damodar Valley under the provisions of such Acts specified in column two thereof against each item of column one.

(2) Notwithstanding anything contained in the Acts specified in column one of Part II of the Schedule, any officer authorised by the Corporation may carry out all or any of the functions and exercise all or any of the powers of a Canal Officer-collector, or Forest Officer, as the case may be, in the Damodar Valley under the provisions of such Acts specified in column two thereof against each item of column one.

Co-operation and avoidance of submersion.

25. *Co-operation with other authorities to minimise inconvenience caused by submersion.*—The Corporation shall co-operate with the participating Governments, railway authorities and local authorities and bodies, with a view to minimising the inconvenience likely to be caused by the submersion of roads and communications and shall bear the cost of any realignment thereof or resettlement of any population rendered necessary by such submersion.

26. *Submersion of coal mines to be avoided by the Corporation.*—The Corporation shall make every endeavour to avoid submersion of coal or mineral deposits and shall co-operate with the coal mining industry and the bodies set up by the participating Governments to ensure the maintenance of supplies of sand for stowing purposes in coal mines and in other ways to minimise the inconvenience to the coal mining industry.

PART IV

FINANCE, ACCOUNTS AND AUDIT

27. *Expenditure till the Corporation is established.*—All expenditure incurred by the Central Government for and in connection with the establishment of the Corporation up to the date of its establishment shall be treated as the capital provided by the Central Government to the Corporation and such capital shall be adjusted between the Participating Governments in accordance with the provisions of sections 30 to 36.

28. *Vesting of property in the Corporation.*—All property acquired and works constructed for the purposes of the Damodar Valley scheme before the establishment of the Corporation shall vest in the Corporation and all income derived and expenses incurred in this behalf shall be brought into the books of the Corporation.

29. *Fund of the Corporation.*—(1) The Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) Except as otherwise directed by the Central Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of

India or the Agents of the Reserve Bank of India or invested in such securities as may be approved by the Central Government.

30. Liabilities of Participating Governments to provide capital to the Corporation.—The Participating Governments shall, as hereinafter specified, provide the entire capital required by the Corporation for the completion of any project undertaken by it.

31. Payment by Participating Government on specified date.—Each Participating Government shall provide its share of the capital on the dates specified by the Corporation and if any Government fails to provide such share on such dates the Corporation may raise loan to make up the deficit at the cost of the Government concerned.

32. Expenditure on objects other than irrigation, power and flood control.—The Corporation shall have power to spend such sums as it thinks fit on objects authorised under this Act other than irrigation, power and flood control and such sums shall be treated as common expenditure payable out of the Fund of the Corporation before allocation under section 32.

33. Allocation of expenditure chargeable to project on main objects.—The total capital expenditure chargeable to a project shall be allocated between the three main objects, namely, irrigation, power and flood control as follows, namely:—

(1) expenditure solely attributable to any of these objects, including a proportionate share of overhead and general charges, shall be charged to that object, and

(2) expenditure common to two or more of the said objects, including a proportionate share of overhead and general charges, shall be allocated to each of such objects in proportion to the expenditure which, according to the estimate of the Corporation, would have been incurred in constructing a separate structure solely for that object, less any amount determined under clause (1) in respect of that object.

34. Capital allocated to irrigation.—The total amount of capital allocated to irrigation shall be shared between the Provincial Governments as follows, namely:—

(1) the Government concerned shall be responsible for the capital cost of the works constructed exclusively for irrigation in its Province; and

(2) the balance of capital cost under irrigation for both the Provinces of Bihar and West Bengal shall be shared by the Provincial Governments in the proportion to their guaranteed annual off-takes of water for agricultural purposes:

Provided that the divisible capital cost under this clause shall be provisionally shared between them in accordance with their previously declared intentions regarding their respective guaranteed off-takes and any payments made accordingly shall be adjusted after the determination of the guaranteed off-takes.

35. Capital allocated to power.—The total amount of capital allocated to power shall be shared equally between the three Participating Governments.

36. Capital allocated to flood control.—The total amount of capital up to fourteen crores of rupees allocated to flood control shall be shared equally between the Central Government and the Government of West Bengal and any amount in excess thereof shall be the liability of the Government of West Bengal.

37. Disposal of profits and deficits.—(1) Subject to the provisions of sub-section (2) of section 40, the net profit, if any, attributable to each of the three main objects, namely, irrigation, power and flood control, shall be credited to the Participating Governments in proportion to their respective shares in the total capital cost attributed to that object.

(2) The net deficit, if any, in respect of any of the objects shall be made good by the Governments concerned in the proportion specified in sub-section (1):

Provided that the net deficit in respect of flood control shall be made good entirely by the Government of West Bengal and the Central Government shall have no share in such deficit.

38. Payment of interest.—The Corporation shall pay interest on the amount of capital provided by each Participating Government at such rate as may, from time to time, be fixed by the Central Government and such interest shall be deemed to be part of the expenditure of the Corporation.

39. Interest charges and other expenses to be added to and receipts taken for reduction of capital cost.—For a period, not exceeding fifteen years, from the establishment of the Corporation, if the Corporation runs in deficit, the interest charges and all other expenditure shall be added to the capital cost and all receipts shall be taken in reduction of such capital cost.

40. Provision for depreciation and reserve and other funds.—(1) The Corporation shall make provision for depreciation and for reserve and other funds at such rates and on such terms as may be specified by the Auditor General of India in consultation with the Central Government.

(2) The net profit for the purposes of section 37 shall be determined after such provision has been made.

41. Corporation's share in betterment levy by Provincial Governments.—In the event of any betterment levy being imposed by a Provincial Government, the proportionate proceeds thereof in so far as they are attributable to the operations of the Corporation shall be credited to the Corporation.

42. Borrowing of money.—The Corporation may, with the approval of the Central Government, borrow money in the open market or otherwise for the purposes of carrying out its functions under this Act.

43. Liability to pay Central taxes.—(1) The Corporation shall be liable to pay any taxes on income levied by the Central Government in the same manner and to the same extent as a company.

(2) The Provincial Governments shall not be entitled to any refund of any such taxes paid by the Corporation.

44. Budget.—(1) The Corporation, in consultation with the financial adviser, shall in October each year prepare in such form as may be prescribed a budget for the next financial year showing the estimated receipts and expenditure and the amounts which would be required from each of the three Participating Governments during that financial year.

(2) Printed copies of the budget shall be made available to each of the three Participating Governments by the 15th day of November each year.

(3) The budget shall be laid before the Central and the Provincial Legislatures concerned as soon as may be after it is prepared.

45. Annual Report.—(1) The Corporation shall prepare, in such form as may be prescribed, an annual report within six months after the end of each financial year giving a true and faithful account of its activities during the previous financial year, with particular reference to—

- (i) irrigation;
- (ii) water supply;
- (iii) electrical energy;
- (iv) flood control;
- (v) navigation;
- (vi) afforestation;
- (vii) soil reclamation;
- (viii) use of lands;

- (ix) resettlement of displaced population ;
- (x) sanitation and public health measures ; and
- (xi) economic and social welfare of the people.

The annual report shall also give a true and faithful account of the income and expenditure during the previous financial year, the net amounts attributable to each of the three main objects and the distribution of the capital cost between the three Participating Governments and show the progressive totals from the inception of the Corporation and the up to date financial results.

(3) The payments provisionally made by each of the three Participating Governments on the basis of the budget estimates shall be adjusted as soon as possible in accordance with the allocation made in the annual report.

(4) Printed copies of the annual report shall be made available to each of the three Participating Governments by the 15th day of October each year.

(5) The annual report shall be laid before the Central and the Provincial Legislatures concerned as soon as may be after it is prepared.

46. Other annual financial statements.—(1) The Corporation shall also prepare such other annual financial statements in such form and by such dates as may be prescribed.

(2) Printed copies of each such annual financial statement shall be made available to each of the three Participating Governments by such date as may be prescribed.

47. Accounts and Audit.—The accounts of the Corporation shall be maintained and audited in such manner as may, in consultation with the Auditor General of India, be prescribed.

PART V

MISCELLANEOUS

48. Directions by the Central Government.—(1) In discharge of its functions the Corporation shall be guided by such instructions on questions of policy as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Corporation as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

49. Disputes between the Corporation and Governments.—(1) Save as otherwise expressly provided in this Act, any dispute between the Corporation and any Participating Government regarding any matter covered by this Act or touching or arising out of it shall be referred to an arbitrator who shall be appointed by the Chief Justice of India.

(2) The decision of the arbitrator shall be final and binding on the parties.

50. Compulsory acquisition of land for the Corporation.—Any land required by the Corporation for carrying out its functions under this Act shall be deemed to be needed for a public purpose and such land shall be acquired for the Corporation as if the provisions of Part VII of the Land Acquisition Act, 1894 (I of 1894) were applicable to it and the Corporation were a company within the meaning of clause (e) of section 3 of the said Act.

51. Control of Central Government.—(1) The Central Government may remove from the Corporation any member who in its opinion—

- (a) refuses to act,
- (b) has become incapable of acting,
- (c) has so abused his position as a member as to render his continuance on the Corporation detrimental to the interest of the public, or
- (d) is otherwise unsuitable to continue as member.

(2) The Central Government may suspend any member pending an enquiry against him.

(3) No order of removal under this section shall be made unless the member concerned has been given an opportunity to submit his explanation to the Central Government, and when such order is passed the seat of the member removed shall be declared vacant and another member may be appointed under section 4 to fill up the vacancy.

(4) A member who has been removed shall not be eligible for reappointment as member or in any other capacity to the Corporation.

(5) The Central Government may declare void any transaction in connection with which a member has been removed under sub-section (1).

(6) If the Corporation fails to carry out its functions, or follow the directions issued by the Central Government under this Act, the Central Government shall have the power to remove the chairman and the members of the Corporation and appoint a Chairman and members in their places.

52. Application of certain provisions of the Indian Forest Act, 1927, to the forests of the Corporation.—All acts prohibited in respect of a reserved forest under section 26 of the Indian Forest Act, 1927 (XVI of 1927) shall be deemed to be prohibited in respect of any forest owned by or under the supervision or control of the Corporation and all offences in respect of such forest shall be punishable under the said Act as if they were committed in respect of a reserved forest.

53. Penalty.—Whoever contravenes the provisions of sections 17 and 18 of this Act or any rule made thereunder shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

54. Procedure for prosecution.—No Court shall take cognisance of an offence under this Act except on the complaint of an officer of the Corporation authorised by it in this behalf.

55. Power of entry.—Any officer or servant of the Corporation generally or specially authorised by the Corporation may at all reasonable times enter upon any land or premises and there do such things as may be reasonably necessary for the purpose of lawfully carrying out any of its works or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of functions by the Corporation under this Act.

56. Members, officers and servants of the Corporation to be public servants.—All members, officers and servants of the Corporation, whether appointed by the Central Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

47. Protection of action taken under the Act.—(1) No suit, prosecution, or legal proceeding shall lie against any person in the employment of the Corporation for anything which is in good faith done or purported to be done under this Act.

(2) Save as otherwise provided in the Act no suit or other legal proceeding shall lie against the Corporation for any damage caused or likely to be caused by anything in good faith done or purported to be done under this Act.

58. Effect of other laws.—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

59. *Power to make rules.*—The Central Government may, by notification in the official Gazette, make rules to provide for all or any of the following matters, namely:—

(1) the salaries and allowances and conditions of service of members, the secretary and the financial adviser ;

(2) the functions and duties of the financial adviser ;

(3) the dams or other works or the installations which may be constructed without the approval of the Corporation,

(4) the forms of the budget, the annual report and the annual financial statements and the dates by which copies of the annual financial statements shall be made available to the Participating Government ;

(5) the manner in which the accounts of the Corporation shall be maintained and audited ;

(6) the appointment of an Advisory Committee ; and

(7) the punishment for breach of any rule made under this Act.

60. *Power to make regulations.*—(1) The Corporation may, with the previous sanction of the Central Government, by notification in the *Gazette of India*, make regulations for carrying out its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, in such regulation the Corporation may make provision for:—

(a) making of appointments and promotions of its officers and servants ;

(b) specifying other conditions of service of its officers and servants ;

(c) specifying the manner in which water rates and charges for electrical energy shall be recovered ;

(d) preventing the pollution of water under its control ;

(e) regulating the taking out of fish from the water under its control ;

(f) regulating its proceedings and business,

(g) prescribing punishment for breach of any regulation.

(3) All regulations made under sub-sections (1) and (2) shall, as soon as possible, be published also in the official *Gazettes* of the Provincial Governments.

THE SCHEDULE

(See section 24)

PART I

Acts	Provisions of the Acts specified in column (1)
(1)	(2)
1. The Canals Act, 1864 (Ben. Act V of 1864).	Section 6 (Power of Provincial Government to fix and alter rates of tolls). Section 8 (Power of Provincial Government to appoint persons to collect tolls who may farm collection).
2. The Indian Forest Act, 1927 (XVI of 1927).	Section 35 (Protection of forests for special purposes). Section 36 (Power to assume management of forests).

PART II.

Acts	Provisions of the Acts specified in column (1)
(1)	(2)
1. The Bengal Irrigation Act, 1876 (Ben. Act III of 1876).	Part III (Power of the maintenance of canals). Section 41 of Part IV (Power of Canal Officer to issue notice to person causing obstruction). Section 42 of Part IV (Power of Canal Officer to cause obstructions to be removed).
2. The Bengal Embankment Act, 1882 (Ben. Act II 1882).	Part II (Powers of Collector and procedure thereon). Part III (Powers of Collector in cases of imminent danger to life or property).
3. Indian Forest Act, 1927 (XVI of 1927).	Section 36 (Power to assume management of forest).

The Industrial Finance Corporation Act, 1948.

Received the assent of the Governor-General on the 27th March 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 27th March 1948.

Act No. XV of 1948.

An Act to establish the Industrial Finance Corporation of India.

WHEREAS it is expedient to establish an Industrial Finance Corporation for the purpose of making medium and long-term credits more readily available to industrial concerns in India, particularly in circumstances where normal banking accommodation is inappropriate or recourse to capital issue methods is impracticable ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Industrial Finance Corporation Act, 1948.

(2) It extends to all the Provinces of India and shall extend to such acceding States as shall by their Instrument of Accession accept the subject-matter of this Act as a matter with respect to which the Dominion Legislature may make laws for such States.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Board” means the Board of Directors of the Corporation ;

(b) “Corporation” means the Industrial Finance Corporation of India established by this Act ;

(c) “industrial concern” means any public limited company or co-operative society incorporated by an Act of the Legislature or under any law for the time being in force and registered in India and engaged in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power ;

(d) "prescribed" means prescribed by rules or regulations made under this Act;

(e) "Reserve Bank" means the Reserve Bank of India;

(f) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (11 of 1934);

(g) "underwriting" means contracting, with or without conditions, to subscribe for stocks, shares, bonds or debentures of an industrial concern with a view to the resale of the whole or any part thereof.

3. *Establishment and incorporation of Corporation.*—(1) A Corporation to be called the Industrial Finance Corporation of India shall be established for the purposes of this Act.

(2) The Corporation shall be a body corporate by the name of the Industrial Finance Corporation of India, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

4. *Share capital and shareholders.*—(1) The authorised capital of the Corporation shall be ten crores of rupees divided into twenty thousand fully paid up shares of five thousand rupees each of which ten thousand shares of the total value of five crores of rupees shall be issued in the first instance, and the remaining shares may be issued with the sanction of the Central Government from time to time as and when the Corporation may deem fit.

(2) Of the capital issued in the first instance, the Central Government and the Reserve Bank shall each subscribe for two thousand shares.

(3) On application made before such date as may be notified by the Central Government in the official Gazette in this behalf, scheduled banks may subscribe for two thousand five hundred shares, and insurance companies, investments trusts and other like financial institutions for two thousand five hundred shares, and co-operative banks for one thousand shares of the Corporation:

Provided that no institution shall be allotted more than ten per cent. of the shares reserved for the class of institutions to which it belongs.

(4) The allotment of shares to the applicants mentioned in sub-section (3) shall be made by the Board in accordance with the regulations made in this behalf.

(5) If any shares referred to in sub-section (3) remain unallotted, they shall be subscribed for by the Central Government and the Reserve Bank in such proportion as may be agreed on between them:

Provided that the Central Government and the Reserve Bank may dispose of the shares subscribed for by them in pursuance of this sub-section to any scheduled bank, insurance company, investment trust or other like financial institution or any co-operative bank to which shares of the Corporation may be transferred under sub-section (7):

(6) If and when the remaining shares or any part thereof are issued, the Central Government and the Reserve Bank shall, and the institutions referred to in sub-section (3) of this section may, subscribe for such shares in the same proportion as for the first issue, and the provisions of sub-sections (4) and (5) of this section shall also apply to such shares.

(7) Shares of the Corporation shall not be transferable except to the Central Government, the Reserve Bank, any scheduled bank, any insurance company, any investment trust or any other like financial institution or any co-operative bank in accordance with the regulations made in this behalf.

5. *Guarantee by Central Government.*—The shares of the Corporations shall be guaranteed by the Central Government as to the repayment of the principal and the payment of the annual dividend at such

minimum rate as may be fixed by the Central Government by notification published in the official Gazette at the time of issuing the shares.

6. Management.—(1) The general superintendence and direction of the affairs and business of the Corporation shall be entrusted to a Board of Directors which, with the assistance of an Executive Committee and a Managing Director, may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board in discharging its functions shall act on business principles due regard being had by it to the interests of industry, commerce and the general public.

(3) In the discharge of its said functions, the Board shall be guided by such instructions on questions of policy as may be given to it by the Central Government.

(4) If any dispute arises between the Central Government and the Board as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

(5) If the Board fails to carry out the instructions on the question of policy laid down by the Central Government, the Central Government shall have the power to supersede the Board and appoint a new Board in its place to function until a properly constituted Board is set up. The decision of the Central Government as to the grounds for superseding the Board shall not be questioned in any Court of law.

7. Powers of Executive Committee.—(1) Subject to such general or special directions as the Board may from time to time give, the Executive Committee shall be competent to deal with any matter within the competence of the Board.

(2) The minutes of every meeting of the Executive Committee shall be laid before the Board at its next following meeting.

8. Advisory Committee.—The Corporation may from time to time appoint one or more Advisory Committee or Committees for the purpose of assisting the Corporation in the efficient discharge of its functions and in particular for the purpose of securing that those functions are exercised with due regard to the circumstances, conditions prevailing in and requirements of particular area.

9. Managing Director.—The Managing Director shall—

(a) be a whole time officer of the Corporation;

(b) perform such duties as the Board may, by regulations entrust or delegate to him;

(c) hold office for four years and be eligible for re-appointment;

(d) receive such salary and allowances as the Board, with the approval of the Central Government, may determine.

10. Board of Directors.—The Board of Directors shall consist of the following, namely:—

(a) three Directors nominated by the Central Government;

(b) two Directors nominated by the Central Board of the Reserve Bank;

(c) two Directors elected in the prescribed manner by the scheduled banks who are shareholders of the Corporation;

(d) two Directors elected in the prescribed manner by the shareholders of the Corporation, other than the Central Government, the Reserve Bank, the scheduled banks and co-operative banks;

(e) two Directors elected in the prescribed manner by the co-operative banks who are shareholders of the Corporation;

(f) one Managing Director appointed by the Central Government after consideration of the recommendation—

(i) in the case of the first appointment, of the Central Board of the Reserve Bank;

(ii) in the case of subsequent appointments, of the Board :

Provided that on the first constitution of the Board the Directors referred to in clauses (c), (d) and (e) shall be nominated by the Central Government to represent the classes of share-holders respectively specified in the said clauses, and Directors nominated under this proviso shall for the purposes of this Act be deemed to be elected Directors :

Provided further that all Directors of the Board first constituted other than the Managing Director shall retire at the end of the first year.

11. Term of office and retirement of Directors.—(1) A nominated Director shall hold office during the pleasure of the Central Government.

(2) An elected Director shall hold office for four years :

Provided that one out of the two directors elected to represent the share-holders referred to in each of the clauses (c), (d) and (e) of section 10 shall retire at the end of two years after the first election ; the directors so to retire shall be determined by lot :

Provided further that an elected Director shall be required to continue in his office until his successor has been elected :

Provided further that a Director shall be eligible for re-election for not more than two full consecutive terms after the rotation of elected Directors has begun.

(3) A casual vacancy in the office of an elected Director shall be filled by election and a Director so elected shall hold office for the unexpired portion of the term of his predecessor :

Provided that no casual vacancy occurring within three months of the date of expiry of the normal term of office of an elected Director need be filled under this sub-section.

(4) Directors other than the Managing Director and not being servants of the Government, shall be paid such fees for attending meetings of the Board and if they are members thereof, of the Executive Committee, as may be prescribed.

(5) No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

12. Disqualification.—No person shall be a Director who—

(a) is a salaried official of the Corporation other than a Managing Director ; or

(b) is, or at any time has been, adjudicated insolvent or has suspended payment or has compounded with his creditors ; or

(c) is found to be a lunatic or becomes of unsound mind ; or

(d) is or has been convicted of any offence involving moral turpitude.

13. Director's absence from three consecutive meetings.—A person shall cease to be a Director if he absents himself from three consecutive meetings of the Board without leave of absence.

14. Appointment of officers, advisers, etc.—The Corporation may appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions.

15. Chairman of the Board.—(1) The Chairman of the Board shall be one of the Directors (not being the Managing Director) nominated in this behalf by the Central Government after considering, except in the case of the nomination of the first Chairman, the recommendation of the Board :

Provided that the nomination of the Chairman for any period (other than the first period) shall be made only after the vacancies in the office of Directors occurring by efflux of time in that period have been filled by nomination or election, as the case may be.

(2) The Chairman shall hold office for two years or until his successor is nominated :

Provided that a Chairman shall, so long as he remains a Director, be eligible for renomination as Chairman.

16. Executive Committee.—(1) The Executive Committee shall consist of the Managing Director (who shall be Chairman of the Committee), two Directors elected by the nominated Directors and two Directors elected by the elected Directors.

(2) A Director elected to be a member of the Executive Committee shall hold office as such for the rest of his term of office as Directors for which he is so elected.

17. Meetings of Board and Committee.—(1) Meetings of the Board and of the Executive Committee shall be held at such times and at such places as may be prescribed:

Provided that until regulations have been made in this behalf such meetings shall be convened by the Managing Director.

(2) To constitute a quorum at a meeting of—

(a) the Board, not less than five Directors shall be present, of whom not less than two shall be nominated Directors and at least one an elected Director;

(b) the Executive Committee, not less than three members shall be present, of whom at least one shall be a nominated Director and one an elected Director.

(3) At a meeting of the Board or of the Executive Committee, each Director or member of the Committee, as the case may be, shall have one vote, and in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) No Director shall vote on any matter concerning an industrial concern in which he is directly or indirectly interested.

(5) If for any reason the Chairman is unable to be present at a meeting—

(a) of the Board, a Director (other than the Managing Director) authorised by the Chairman in writing in this behalf shall preside at that meeting and in default of such authorisation the Board may elect a Chairman to preside at that meeting;

(b) of the Executive Committee, a member authorised in writing by the Managing Director shall preside at that meeting and in default of such authorisation the Executive Committee may elect a Chairman to preside at that meeting.

18. Offices and agencies.—The Corporation shall establish its head office in Delhi and offices in Bombay, Calcutta, Kanpur and Madras, and may, with the previous sanction of the Central Government, establish offices or agencies in other places in India.

19. Deposit Accounts.—The Corporation may open Deposit Accounts with the Reserve Bank or with any agency of the Reserve Bank other than a Government treasury.

20. Investment of funds.—The Corporation may invest its funds in the securities of the Central Government or of any Provincial Government.

21. Borrowing powers.—(1) The Corporation may issue and sell bonds and debentures carrying interest for the purpose of raising its working capital:

Provided that the total amount of bonds and debentures issued and outstanding and of the contingent liabilities of the Corporation in the form of guarantees given by it or underwriting agreements entered into by it shall not at any time exceed five times the amount of the paid up share capital and the reserve fund of the Corporation.

(2) Bonds and debentures of the Corporation shall be guaranteed by the Central Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Central Government on the recommendation of the Board at the time the bonds and debentures are issued.

22. Deposits with the Corporation.—The Corporation may accept deposits from the public repayable after the expiry of a period which shall not be less than five years from the date of the making of the deposit, and on such other terms as it thinks fit :

Provided that the total amount of such deposits shall not at any time exceed ten crores of rupees.

23. Business which the Corporation may transact.—(1) The Corporation shall, subject to the provisions of this Act, be authorised to carry on and transact the following kinds of business, namely :—

(a) guaranteeing, on such terms and conditions as may be agreed upon, loans raised by industrial concerns which—

(i) are repayable within a period not exceeding twenty-five years, and

(ii) are floated in the public market ;

(b) underwriting the issue of stock, shares, bonds or debentures by industrial concerns ;

(c) receiving in consideration of the services mentioned in clauses (a) and (b) such commission as may be agreed upon ;

(d) retaining as part of its assets any stock, shares, bonds or debentures which it may have to take up in fulfilment of its underwriting liabilities, so however that it disposes of the stock, shares, bonds or debentures so acquired as early as practicable and in any case within a period of seven years from the date of such acquisition ;

(e) granting loans or advances to, or subscribing to debentures of, industrial concerns, repayable within a period not exceeding twenty-five years from the date on which they are granted or subscribed to, as the case may be ; and

(f) generally, the doing of all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

(2) No accommodation shall be given under sub-clauses (a) and (e), unless it is secured by a sufficient pledge, mortgage, hypothecation or assignment of Government or other securities, stocks, shares or secured debentures, bullion, movable or immovable property or other tangible assets in the manner prescribed by regulations.

24. Limit of accommodation.—The Corporation shall not enter into any arrangement under clauses (a) and (e) of sub-section (1) of section 23 with a single industrial concern for an amount equivalent in the aggregate to more than ten per cent. of the paid up share capital of the Corporation but in no case exceeding fifty lakhs of rupees.

25. Power to impose conditions for accommodation.—(1) In entering into any arrangement under section 23 with an industrial concern, the Corporation may impose such conditions as it may think necessary or expedient for protecting the interests of the Corporation, and securing that the accommodation granted by it is put to the best use by the industrial concern.

(2) Where one of the conditions imposed is that a Director shall be appointed by the Corporation on the Board of Directors of the industrial concern to protect the interests of the Corporation, such condition shall be valid notwithstanding anything contained in the Indian Companies Act, 1913 (VII of 1913), or any other law for the time being in force.

26. Prohibited business.—The Corporation shall not—

(a) accept deposits except as provided by this Act ;

(b) subscribe directly to the shares or stock of any company having limited liability :

Provided that nothing in clause (b) shall affect the right of the Corporation to acquire any shares, bonds or debentures of a company having limited liability in fulfilment of any underwriting agreement entered into by the Corporation.

27. *Loans in foreign currency*—(1) The Corporation may, for the purpose of making loans or advances to industrial concerns requiring to be financed in foreign currency, borrow, with the previous consent of the Central Government, such currency through the International Bank for Reconstruction and Development or otherwise, and may pledge, mortgage, hypothecate or assign to the said Bank or other foreign lender all or any part of the security taken by the Corporation from the industrial concerns for the loans or advances granted in foreign currency.

(2) All loans and advances made to industrial concerns in foreign currency shall be repaid in the currency in which they are made or its equivalent in Indian currency at the rate of exchange prevailing at the time of repayment.

28. *Rights of Corporation in case of default*.—(1) Where any industrial concern which is under a liability to the Corporation under an agreement makes any default in repayment or otherwise fails to comply with the terms of its agreement with the Corporation, the Corporation shall have the right to take over the management of the concern, as well as the right to sell and realise the property pledged, mortgaged, hypothecated or assigned to the Corporation.

(2) Any transfer of property made by the Corporation in exercise of its powers of sale and realization under sub-section (1) shall vest in the transferee all rights in or to the property transferred as if the sale had been made by the owner of the property.

(3) The Corporation shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of security held by it, as it had with respect to the original goods.

(4) Where the Corporation takes over the management of a concern under the provisions of sub-section (1), it shall be deemed to be the owner of such concern for purposes of suits by or against such concern and shall sue and be sued in the name of the owner of the concern.

29. *Power to call for repayment before agreed period*.—Notwithstanding any agreement to the contrary, the Corporation may, by notice require any industrial concern, to which it has granted any loan or advance, forthwith to discharge in full its liabilities to the Corporation—

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the loan or advance ; or

(b) if the industrial concern has failed to comply with the terms of its contract with the Corporation in the matter of the loan or advance ; or

(c) if there is a reasonable apprehension that the industrial concern is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof ; or

(d) if the property pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan or advance is not insured and kept insured by the industrial concern to the satisfaction of the Corporation ; or depreciates in value, in the opinion of the Board, by more than twenty per cent, and further security to the satisfaction of the Board is not given ; or

(e) if, without the permission of the Board, machinery or other equipment, whether forming part of the security or otherwise, is removed from the premises of the industrial concern without being replaced; or

(f) if for any reason it is necessary in the opinion of the Board to protect the interests of the Corporation.

30. *Special provisions for enforcement of claims by the Corporation.*—(1) Where by reason of the breach of any condition of an agreement between the Corporation and an industrial concern the Corporation becomes entitled to call for the immediate payment of any loan or advance granted by it, before the due date or where the due date has expired, and the industrial concern fails to repay, such loan or advance, any officer of the Corporation generally or especially authorised by the Board in this behalf may apply to the District Judge within the local limits of whose jurisdiction the industrial concern carries on the whole or a substantial part of its business for one or more of the following reliefs, namely:—

(a) for an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan or advance, or

(b) for transferring the management of the industrial concern to the Corporation, or

(c) for an *ad interim* injunction where there is apprehension of the machinery or the equipment being removed from the premises of the industrial concern without the permission of the Board.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the industrial concern to the Corporation, the ground on which it is made and such other particulars as may be prescribed.

(3) When the application is for the reliefs mentioned in sub-clauses (a) and (c) of sub-section (1) the District Judge shall pass an *ad interim* order attaching the security or so much of the property of the industrial concern as would on being sold realise in his estimation an amount equivalent in value to the outstanding liability of the industrial concern to the Corporation together with the costs of the proceedings taken under this section with or without an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery or equipment.

(4) Where the application is for the relief mentioned in sub-clause (b) of sub-section (1) the District Judge shall grant an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery or equipment and issue a notice calling upon the industrial concern to show cause on a date to be specified in the notice why the management of the industrial concern should not be transferred to the Corporation.

(5) Before passing any order under sub-section (3) or sub-section (4), the District Judge may, if he thinks fit, examine the officer making the application.

(6) At the same time as he passes an order under sub-section (3), the District Judge shall issue to the industrial concern a notice accompanied by copies of the order, the application and the evidence, if any, recorded by him, calling upon it to show cause on a date to be specified in the notice why the *ad interim* order of attachment should not be made absolute or the injunction confirmed.

(7) If no cause is shown on or before the date specified in the notice under sub-sections (4) and (6), the District Judge shall forthwith make the *ad interim* order absolute and direct the sale of the attached property or transfer the management of the industrial concern to the Corporation or confirm the injunction.

(8) If cause is shown the District Judge shall proceed to investigate the

claim of the Corporation and the provisions of the Code of Civil Procedure (V of 1908), shall as far as practicable apply to such proceedings.

(9) On an investigation made under sub-section (8) the District Judge shall pass an order—

(a) confirming the order of attachment and directing the sale of the attached property, or

(b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property, or

(c) releasing the property from attachment, if he is satisfied that it is not necessary in the interests of the Corporation, or

(d) confirming or dissolving the injunction, or

(e) transferring the management of the industrial concern to the Corporation or rejecting the claim made in this behalf.

Provided that when making any order under clause (c), the District Judge may make such further orders as he thinks necessary to protect the interests of the Corporation, and may apportion the costs of the proceedings in such manner as he thinks fit.

Provided further that unless the Corporation intimates to the District Judge that it will not appeal against any order releasing any property from attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (11) within which an appeal may be preferred, or if an appeal is preferred, unless the High Court otherwise directs, until the appeal is disposed of.

(10) An order of attachment or sale of property under this section shall be carried into effect as far as may be practicable in the manner provided in the Code of Civil Procedure (V of 1908) for the attachment or sale of property in execution of a decree, as if the Corporation were the decree-holder.

(11) Any party aggrieved by an order under sub-section (7) or sub-section (9) may, within thirty days from the date of the order, appeal to the High Court, and upon such appeal, the High Court may after hearing the parties pass such orders as it thinks proper.

(12) Nothing in this section shall be construed, where proceedings for liquidation in respect of the industrial concern have commenced before an application is made under sub-section (1) as giving to the Corporation any preference over the other creditors of the industrial concern not conferred on it by any other law.

(13) The functions of a District Judge under this section shall, in a Presidency-town, be exercised by the Chief Judge of the Small Cause Court.

31. *Act XVIII of 1891 to apply to the books of the Corporation.*—The Corporation shall be deemed to be a bank for the purposes of the Banker's Books Evidence Act, 1891 (XVIII of 1891).

32. *Disposal of profits.*—(1) The Corporation shall establish a reserve fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and all other matters which are usually provided for by bankers, the Corporation may out of its net annual profits declare a dividend:

Provided that for so long as the reserve fund is less than the paid up share capital of the Corporation and until there has been repaid to the Central Government such sums, if any, as that Government may have paid under the guarantee given in pursuance of section 5 or under any guarantee given in pursuance of sub-section (2) of section 21, the rate of such dividend shall not exceed the rate guaranteed by the Central Government under section 5:

Provided further that under no circumstances shall any such dividend

exceed the rate of five per cent. per annum and if in respect of any financial year after the reserve fund becomes equal to the share capital of the Corporation there is, after declaring a dividend at that rate any surplus in the net profits such surplus shall be paid to the Central Government.

33. General meetings.—(1) A general meeting (hereinafter referred to as the annual general meeting) shall be held annually at a place in India where there is an office of the Corporation within two months from the date on which the annual accounts of the Corporation are closed; and a general meeting may be convened by the Board at any other time.

(2) The share-holder present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the Board on the working of the Corporation throughout the year and the auditors' report on the annual balance-sheet and accounts.

34. Audit.—(1) The affairs of the Corporation shall be audited by not less than two auditors qualified under section 144 of the Indian Companies Act, 1913 (VII of 1913), to act as auditors of companies who shall be appointed by the Central Government on such remuneration as the Central Government may fix, and such remuneration shall be paid by the Corporation.

(2) Every auditor shall be supplied with a copy of the annual balance-sheet of the Corporation, and it shall be his duty to examine it together with the accounts and vouchers relating thereto; and every auditor shall have a list delivered to him of all books kept by the Corporation, and shall at all reasonable times have access to the books, accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(3) The auditors shall make a report to the share-holders upon the annual balance-sheet and accounts, and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the affairs of the Corporation, and in case they have called for any explanation or information from the Board whether it has been given and whether it is satisfactory.

(4) The Central Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Corporation for the protection of its share-holders and creditors or upon the sufficiency of their procedure in auditing the affairs of the Corporation, and may at any time enlarge or extend the scope of the auditor direct that a different procedure in audit be adopted or direct that any other examination be made by the auditors if in its opinion the public interest so requires.

35. Returns.—(1) The Corporation shall furnish a statement in the prescribed form of its assets and liabilities as at the close of business on the last Friday of each month, or if that day is a public holiday under the Negotiable Instruments Act, 1881 (XXVI of 1881), as at the close of business on the preceding working day, to all shareholders within ten days from the date to which the statement relates.

(2) The Corporation shall furnish in the prescribed form to the Central Government and to the Reserve Bank at least once in every year or as frequently as the Central Government or the Reserve Bank may require a classification of its loans and investments and of loans guaranteed by it and underwriting agreements entered into by it.

(3) The Corporation shall furnish to the Central Government and the Reserve Bank within two months of the close of the financial year a statement in the prescribed form of its assets and liabilities as at the close of that year together with a profit and loss account for the year and a report

of the working of the Corporation during the year, and copies of the said statement, account and report shall be published in the official Gazette and shall be laid before the Central Legislature.

36. *Acquisition of shares by the Central Government.*—In the event of the Central Government at any time deciding to acquire the shares held by share-holders other than the Central Government and the Reserve Bank the share-holders shall be paid for the shares so acquired an amount equal to the paid up value of the shares together with a premium calculated at the rate of one per cent. of the paid up value for every year from the date of issue to the date of acquisition, subject to a maximum of ten per cent.

37. *Liquidation of Corporation.*—No provision of law relating to the winding up of companies or corporations shall apply to the Corporation, and the Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

38. *Indemnity of Directors.*—(1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in or about the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A Director shall not be responsible for any other Director or for any officer or servant of the Corporation or for any loss or expense resulting to the Corporation by the inefficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation, or by the wrongful act of any person under obligation to the Corporation, or by anything done in good faith in the execution of the duties of his office or in relation thereto.

39. *Declaration of fidelity and secrecy.*—Every Director, auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

40. *Provision relating to income-tax and super-tax.*—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Corporation shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains:

Provided that any sum paid by the Central Government under the guarantee given in pursuance of section 5 or under any guarantee given in pursuance of sub-section (2) of section 21 shall not be treated as the income, profits and gains of the Corporation, and any interest on debentures or bonds paid by the Corporation out of such sum shall not be treated as expenditure incurred by it:

Provided further that in the case of any shareholder, such portion of a dividend as has been paid out of any such sum advanced by the Central Government, shall be deemed to be his income from "interest on securities", declared to be income-tax free within the meaning of section 8 of the said Act.

41. *Offences.*—Whoever in any bill of lading, warehouse receipt or other instrument given to the Corporation whereby security is given or is purported to be given to the Corporation for any accommodation granted by it under this Act wilfully makes any false statement, or knowingly permits any false statement to be made, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(2) Whoever without the consent in writing of the Corporation uses the name of the Corporation in any prospectus or advertisement shall be punishable with imprisonment for a term which may extend to six

months or with fine which may extend to one thousand rupees or with both.

(3) No Court shall take cognizance of any offence punishable under this Act otherwise than on a complaint in writing signed by an officer of the Corporation authorised by the Board in this behalf.

42. Power of Central Government to make rules.—The Central Government may make rules not inconsistent with the provisions of this Act, to give effect to the provisions of this Act, and where there is any inconsistency between the rules and the regulations made under this Act the rules shall prevail.

43. Power of Board to make regulations.—(1) The Board may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the holding and conduct of elections under this Act, including the final decision of doubts or disputes regarding the validity of elections;

(b) the manner in which and the conditions subject to which the first allotment of shares of the Corporation shall be made;

(c) the manner in which and the conditions subject to which the shares of the Corporation may be held and transferred, and generally all matters relating to the rights and duties of shareholders;

(d) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;

(e) the calling of meetings of the Board and of the Executive Committee, fees for attending meetings thereof and the conduct of business thereat;

(f) the manner and terms of issue and redemption of bonds and debentures by the Corporation;

(g) the conditions which the Corporation may impose in granting loans or advances;

(h) the manner of determining the sufficiency of the security taken under sub-section (2) of section 23;

(i) the manner and conditions subject to which the Corporation may borrow in foreign currency from foreign lenders;

(j) the forms of returns and statements required under this Act;

(k) the duties and conduct of officers and servants and agents of the Corporation;

(l) the disclosure of interest, direct or indirect, of a Director in any industrial concern;

(m) taking over the management of and managing an industrial concern committing a breach of its agreement with the Corporation;

(n) appointment of *ad hoc* committees for technical and other advice for purposes of this Act; and

(o) generally, the efficient conduct of the affairs of the Corporation.

(3) All regulations made under this section shall be published in the official Gazette and shall come into force on such publication and shall also be laid on the table of the Legislature.

THE SCHEDULE

(See section 39)

Declaration of Fidelity and Secrecy

I....., do declare that I will faithfully, truly and to the best of my judgment, skill and ability, execute and perform the duties required of me as a Director, officer, employee or auditor (as the case may be) of the

Industrial Finance Corporation of India and which properly relate to any office or position in the said Corporation held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

Signature.....

Signed before me.

Signature.....

Designation.....

Dated

The Dentists Act, 1948.

Received the assent of the Governor General on the 29th March 1948, and is published in the *Gazette of India*, Extraordinary, dated the 29th March 1948.

Act No. XVI of 1948.

An Act to regulate the profession of dentistry.

WHEREAS it is expedient to make provision for the regulation of the profession of dentistry and for that purpose to constitute Dental Councils ;

It is hereby enacted as follows :—

CHAPTER I

INTRODUCTORY

1. *Short title and extent.*—(1) This Act may be called the Dentists Act, 1948.

(2) It extends to all the Provinces of India.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “the Council” means the Dental Council of India constituted under section 3 ;

(b) “dental hygienist” means a person not being a dentist or a Medical practitioner, who scales, cleans or polishes teeth, or gives instruction in dental hygiene ;

(c) “dental mechanic” means a person who makes or repairs dentures and dental appliances ;

(d) “dentistry” includes—

(i) the performance of any operation on, and the treatment of any disease, deficiency or lesion of, human teeth or jaws, and the performance of radiographic work in connection with human teeth or jaws or the oral cavity ;

(ii) the giving of any anaesthetic in connection with any such operation or treatment ;

(iii) the mechanical construction or the renewal of artificial dentures or restorative dental appliances ;

(iv) the performance of any operation on, or the giving of any treatment, advice or attendance to, any person preparatory to, or for the purpose of, or in connection with, the fitting, inserting, fixing, constructing, repairing or renewing of artificial dentures or restorative dental appliances, and the performance of any such operation and the giving of any such treatment, advice or attendance, as is usually performed or given by dentists ;

(e) “dentist” means a person who practises dentistry ;

(f) “medical practitioner” means a person who holds a qualification granted by an authority specified or notified under section 3 of the Indian Medical Degree Act, 1916 (VII of 1916), or specified in the Schedules to

the Indian Medical Council Act, 1933 (XXVII of 1933), or who practises any system of medicine and is registered or is entitled to be registered in any provincial medical register by whatever name called;

(g) "prescribed" means prescribed by rules or regulations made under this Act;

(h) "Provincial Council" means a Provincial Dental Council constituted under section 21, and includes a Joint Provincial Council constituted in accordance with an agreement under section 22;

(i) "register" means a register maintained under this Act;

(j) "recognised dental qualification" means any qualification for the time being included in the Schedule or recognised by the Council under section 10;

(k) "recognised dental hygiene qualification" means a qualification recognised by the Council under section 11;

(l) "registered dentist", "registered dental hygienist" and "registered dental mechanic" shall mean, respectively, a person whose name is for the time being registered in a register of dentists, a register of dental hygienists and a register of dental mechanics.

CHAPTER II

DENTAL COUNCIL OF INDIA

3. *Constitution and composition of Council.*—The Central Government shall, as soon as may be, constitute a Council consisting of the following members, namely:—

(a) one registered dentist possessing a recognised dental qualification elected by the dentists registered in Part A of each Provincial register;

(b) one member elected from amongst themselves by the members of the Medical Council of India;

(c) not more than four members elected from among themselves, by the heads of dental colleges in the Provinces of India which grant recognised dental qualifications;

(d) one member from each University in the Provinces of India which grants a dental qualification, to be elected by the members of the Senate of the University, or in case the University has no Senate, by the members of the Court, from amongst the members of the Medical Faculty of the University;

(e) one member to represent each Governor's Province nominated by each such Provincial Government from persons registered either in a medical register or in a dental register of the Province;

(f) six members nominated by the Central Government, of whom at least one shall be a registered dentist possessing a recognised dental qualification and practising or holding an appointment in an institution for the training of dentists in a Chief Commissioner's Province, and at least two shall be dentists registered in Part B of a Provincial register;

Provided that pending the preparation of registers the Provincial Governments may nominate to the first Council members referred to in parts (a) and (e) and the Central Government members referred to in part (f) out of persons who are eligible for registration in the respective registers and such persons shall hold office for such period as the Provincial or Central Government may, by notification in the official Gazette, specify.

4. *Incorporation of Council.*—The Council shall be a body corporate by the name of the Dental Council of India, having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

5. *Mode of elections.*—Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any

such election, it shall be referred to the Central Government whose decision shall be final.

6. *Term of office and casual vacancies.*—(1) Subject to the provisions of this section, an elected or nominated member shall hold office for a term of five years from the date of his election or nomination or until his successor has been duly elected or nominated, whichever is longer.

(2) An elected or nominated member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) An elected or nominated member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council or, in the case of a member whose name is required to be included in a Provincial register, if his name is removed from such register, or if he has been elected under clause (c) of section 3, if he ceases to hold his appointment as head of a college, or if he has been elected under clause (b) or (d) of section 3, if he ceases to be a member of the Medical Council of India or the Medical Faculty of the University, as the case may be.

(4) A casual vacancy in the Council shall be filled by fresh election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(5) Members of the Council shall be eligible for re-election or re-nomination.

(6) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

7. *President and Vice-President of Council.*—(1) The President and Vice-President of the Council shall be elected by the members thereof from among themselves.

Provided that on the first constitution of the Council and until the President is elected, a member of the Council nominated by the Central Government in this behalf shall discharge the functions of the President :

Provided further that for five years from the first constitution of the Council, the President shall, if the Central Government so decides, be a person nominated by the Central Government who shall hold office during the pleasure of the Central Government, and where he is not already a member, shall be a member of the Council in addition to the members referred to in section 3.

(2) An elected President or Vice-President shall hold office as such for a term not exceeding five years and not extending beyond the expiry of his term as member of the Council, but subject to his being a member of the Council, he shall be eligible for re-election.

8. *Staff, remuneration and allowances.*—(1) The Council shall—

(a) appoint a Secretary who may also, if so decided by the Council, act as Treasurer ;

(b) appoint such other officers and servants as the Council deems necessary to enable it to carry out its functions under this Act ;

(c) require and take from the Secretary or from any other officer or servant such security for the due performance of his duties as the Council considers necessary ; and

(d) with the previous sanction of the Central Government, fix the fees and allowances of the President, Vice-President and other members of the Council, and the pay and allowances and other conditions of service

of officers and servants of the Council.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), for the first four years from the first constitution of the Council, the Secretary of the Council shall be a person appointed by the Central Government, who shall hold office during the pleasure of the Central Government.

9. *The Executive Committee.*—(1) The Council shall constitute from among its members an Executive Committee, and may so constitute other Committees for such general or special purposes as the Council considers necessary for carrying out its functions under this Act.

(2) The Executive Committee shall consist of the President and Vice-President *ex-officio*, and five other members elected by the Council.

(3) The President and Vice-President of the Council shall be Chairman and Vice-chairman, respectively, of the Executive Committee.

(4) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the Council but, subject to his being a member of the Council, he shall be eligible for re-election.

(5) In addition to the powers and duties conferred and imposed on it by this Act, the Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

10. *Recognition of qualifications.*—(1) For the purposes of this Act the qualifications included in Part I of the Schedule shall be recognised dental qualifications but shall not entitle persons other than British subjects of Indian domicile to registration unless by the law and practice of the State or country to which such persons belong, persons of Indian origin holding dental qualifications registrable in that State or country are permitted to enter and practise the profession of dentistry in such State or country.

(2) Any authority in a Province of India which grants a qualification in dentistry not included in Part I of the Schedule may apply to the Council to have such qualification recognised, and the Council may, after such inquiry, if any, as it thinks fit, and after consulting the Government and the Provincial Council of the Province in which the authority making the application is situated, declare that such qualification, or such qualification only when granted after a specified date shall be a recognised dental qualification.

(3) The qualifications included in Part II of the Schedule shall be recognised dental qualifications but shall not entitle persons other than British subjects of Indian domicile to registration unless they have been declared to be recognised dental qualifications in accordance with the provisions of sub-section (5).

(4) The qualifications included in Part III of the Schedule shall be recognised dental qualifications only for the purpose of the registration of British subjects of Indian domicile when the register is first prepared under this Act.

(5) The Council may enter into negotiations with any authority in any State or country outside the Province of India which by the law of such State or country is entrusted with the maintenance of a register of dentists, for the settling of a scheme of reciprocity for the recognition of qualifications, and in pursuance of any such scheme the Council may declare that a qualification granted by any authority in any such State or country, or such qualification, only when granted after a specified date, shall be a recognised dental qualification for the purposes of this Act:

Provided that no declaration shall be made under this sub-section in respect of any qualification unless by the law and practice of the State

or country in which the qualification is granted, persons of Indian origin holding dental qualifications registrable in that State or country are permitted to enter and practice the profession of dentistry in that State or country.

11. *Qualifications of dental hygienists.*—Any authority in a Province of India which grants a qualification for dental hygienists may apply to the Council to have such qualification recognised, and the Council may, after such inquiry, if any, as it thinks fit, and after consulting the Government and the Provincial Council of the Province in which the authority making the application is situated, declare that such qualification, or such qualification only when granted after a specified date, shall be a recognised dental hygiene qualification for the purposes of this Act.

12. *Qualifications of dental mechanics.*—The Council may prescribe the period and nature of an apprenticeship or training which shall be undergone and the other conditions which shall be satisfied by a person before he is entitled to be registered under this Act as a dental mechanic.

13. *Effect of recognition.*—Notwithstanding anything contained in any other law, but subject to the provisions of this Act,—

(a) any recognised dental or dental hygiene qualification shall be a sufficient qualification for enrolment in the appropriate register of any Province ;

(b) no person shall, after the first registers are compiled under this Act, be entitled to be enrolled in any register as a dentist or dental hygienist unless he holds a recognised dental or dental hygiene qualification or as a dental mechanic unless he has undergone training which satisfies the prescribed requirements referred to in section 12.

14. *Power to require information as to courses of study and training and examinations.*—Every authority in a Province of India which grants any recognised dental or dental hygiene qualification shall furnish such information as the Council may from time to time require as to the courses of study and training and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses or study and examinations are required to be undergone, and generally as to the requisites for obtaining such qualification.

15. *Inspections.*—(1) The Executive Committee may appoint such number of Inspectors as it deems necessary to attend at any examinations held by authorities in the Provinces of India which grant recognised dental and dental hygiene qualifications and to inspect any institution recognised as a training institution.

(2) Inspectors appointed under this section shall not interfere with the course of any examination but they shall report to the Executive Committee on the sufficiency of every examination at which they attend and of the courses of study and training at every institution which they inspect, and on any other matters with regard to which the Executive Committee may require them to report.

(3) The Executive Committee shall forward a copy of such report to the authority or institution concerned and shall also forward copies with remarks, if any, of the authority or institution concerned thereon to the Central Government and to the Government of the Province in which the authority or institution is situated.

16. *Withdrawal of recognition.*—(1) When upon report by the Executive Committee it appears to the Council—

(a) that the courses of study and training or the examinations to be undergone in order to obtain a recognised dental or dental hygiene qualification from any authority in a Province of India, or the conditions for admission to such courses or the standards of proficiency required from

the candidates at such examinations are not in conformity with regulations made under this Act or fall short of the standards required thereby, or

(b) that an institution does not satisfy the requirements of the Council,

the Council may send to the Government of the Province in which the authority or institution is situated a statement to such effect, and the Provincial Government shall forward it, along with such remarks as it may think fit, to the authority or institution concerned, with an intimation of the period within which the authority or institution may submit its explanation to the Provincial Government.

(2) On receipt of the explanation, or where no explanation is submitted within the period fixed, then on the expiry of the period, the Provincial Government shall after consulting the Provincial Council, forward its recommendations and those of the Provincial Council, if any, to the Council.

(3) The Council, after considering the recommendations of the Provincial Government and the Provincial Council and after such further inquiry, if any, as it may think fit to make, may declare that the qualification granted by the authority or institution shall be a recognised dental or dental hygiene qualification only when granted before a specified date.

(4) The Council may declare that any recognised dental or dental hygiene qualification granted outside the provinces of India shall be recognised as such only if granted before a specified date.

17. *Mode of declarations.*—All declarations under section 10, section 11 or section 16 shall be made by a resolution passed at a meeting of the Council and shall forthwith be published in the official Gazette.

18. *The Indian Register.*—(1) The Council shall maintain a register of dentists to be known as the Indian Dentists Register and consisting of the entries in all the Provincial registers of dentists.

(2) Each Provincial Council shall supply to the Council twenty printed copies of the Provincial register as soon as may be after the 1st day of April of each year, and each Registrar shall inform the Council without delay of all additions to and other amendments in the Provincial register.

19. *Information to be furnished.*—(1) The Council shall furnish copies of its minutes and of the minutes of the Executive Committee and an annual report of its activities together with an abstract of its accounts to the Central Government.

(2) The Central Government may publish in such manner as it thinks fit any report, copy or abstract furnished to it under this section.

20. *Power to make regulations.*—(1) The Council may, with the approval of the Central Government, make regulations not inconsistent with the provisions of this Act to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may—

(a) provide for the management of the property of the Council and the maintenance and audit of its accounts;

(b) prescribe the manner in which elections under this Chapter shall be conducted;

(c) provide for the summoning and holding of meetings of the Council and the Executive Committee, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(d) prescribe the functions of the Executive Committee;

(e) prescribe the powers and duties of the President and Vice-President;

(f) prescribe the tenure of office and the powers and duties of the Secretary, Inspector and other officers and servants of the Council;

(g) prescribe the standard curricula for the training of dentists and dental hygienists, and the condition for admission to courses of such trainings;

(h) prescribe the standards of examinations and other requirements to be satisfied to secure for qualifications recognition under this Act;

(i) any other matter which is to be or may be prescribed under this Act:

Provided that regulations under clauses (g) and (h) shall be made after consultation with Provincial Governments.

(3) To enable the Council to be first constituted, the Central Government may make regulations for the conduct of the elections to the Council, and any regulation so made may be altered or rescinded by the Council in exercise of its powers under this section.

CHAPTER III

PROVINCIAL DENTAL COUNCILS

21. *Constitution and composition of Provincial Councils.*—Except where a Joint Provincial Council is constituted in accordance with an agreement made under section 22, the Provincial Government shall constitute a Provincial Council consisting of the following members, namely:—

(a) four members elected from among themselves by dentists registered in Part A of the Provincial register;

(b) four members elected from among themselves by dentists registered in Part B of the Provincial register;

(c) the heads of dental colleges in the Province which grant recognised dental qualifications *ex officio*;

(d) one member elected from amongst themselves by the members of the Medical Council or the Council of Medical Registration of the Province, as the case may be; and

(e) three members nominated by the Provincial Government:

Provided that in the Province of West Bengal the Board established under the Bengal Dentists Act, 1939 (Bengal Act XII of 1939), shall be deemed to be the Provincial Council constituted under this Act.

22. *Inter-Provincial agreements.*—(1) Two or more Provincial Governments may enter into an agreement to be in force for such period and to be subject to renewal for such further periods, if any, as may be specified in the agreement, to provide—

(a) for the constitution of a Joint Provincial Council for all the participating Provinces, or

(b) for the Provincial Council of one Province to serve the needs of the other participating Provinces.

(2) In addition to such matters as are in this Act specified, an agreement under this section may—

(a) provide for the apportionment between the participating Provinces of the expenditure in connection with the Provincial Council or Joint Provincial Council;

(b) determine which of the participating Provincial Governments shall exercise the several functions of the Provincial Government under this Act, and the references in this Act to the Provincial Government shall be construed accordingly;

(c) provide for consultation between the participating Provincial Governments either generally or with reference to particular matters arising under this Act;

(d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published in the official Gazettes of the participating Provinces.

23. Composition of Joint Provincial Councils.—A Joint Provincial Council shall consist of the following members, namely:—

(a) two members elected from among themselves by dentists registered in Part A of the register of each of the participating Provinces;

(b) two members elected from among themselves by dentists registered in Part B of the register of each of the participating Provinces;

(c) the heads of dental college in all the participating Provinces which grant recognised dental qualifications, *ex officio*;

(d) one member elected by the Medical Council or the Council of Medical Registration, of each participating Province, as the case may be;

(e) two members nominated by each participating Provincial Government.

24. Incorporation of Provincial Council.—Every Provincial Council shall be a body corporate by such name as may be notified by the Provincial Government in the official Gazette or, in the case of a Joint Provincial Council, as may be determined in the agreement, having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

25. President and Vice-President of Provincial Council.—(1) The President and Vice-President of the Provincial Council shall be elected by the members from among themselves:

Provided that for five years from the first constitution of the Provincial Council, the President shall, if the Provincial Government so decides, be a person nominated by the Provincial Government who shall hold office during the pleasure of the Provincial Government, and where he is not already a member, shall be a member of the Provincial Council in addition to the members referred to in section 21 or 23, as the case may be.

(2) The President or Vice-President shall hold office as such for a term not exceeding five years and not extending beyond the expiry of his term as a member of the Provincial Council, but subject to his being a member of the Provincial Council, he shall be eligible for re-election.

26. Mode of elections.—Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the Provincial Government whose decision shall be final.

27. Term of office and casual vacancies.—(1) Subject to the provisions of this section, an elected or nominated member shall hold office for a term of five years from the date of his election or nomination or until his successor has been duly elected or nominated, whichever is longer.

(2) An elected or nominated member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) An elected or nominated member shall be deemed to have vacated his seat—

(a) if he is absent without excuse, sufficient in the opinion of the Provincial Council, from three consecutive ordinary meetings of the Provincial Council, or

(b) in the case of a member whose name is required to be included in any Provincial register, if his name is removed from the register, or

(c) where he has been elected under clause (d) of section 21 or under clause (d) of section 23, if he ceases to be a member of the Medical Council or the Council of Medical Registration of the Province as the case may be.

(4) A casual vacancy in the Provincial Council shall be filled by fresh

election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(5) Members of the Provincial Council shall be eligible for re-election or re-nomination.

(6) No act done by the Provincial Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Provincial Council.

28. Staff, remuneration and allowances.—(1) The Provincial Council may, with the previous sanction of the Provincial Government,—

(a) appoint a Registrar, who shall also act as Secretary and if so decided by the Provincial Council also as its Treasurer ;

(b) appoint such other officers and servants as may be required to enable the Provincial Council to carry out its functions under this Act ;

(c) require and take from the Registrar or from any other officer or servant such security for the due performance of his duties as the Provincial Council considers necessary ;

(d) fix the salaries and allowances and other conditions of service of the Registrar and other officers and servants of the Provincial Council ;

(e) fix the rate of allowances payable to members of the Provincial Council.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), for the first four years from the first constitution of the Provincial Council, the Registrar of the Provincial Council shall be a person appointed by the Provincial Government, who shall hold office during the pleasure of the Provincial Government.

29. Executive Committee—(1) The Provincial Council shall constitute from among its members an Executive Committee consisting of the President and Vice-President *ex officio*, and such number of other members elected by the Provincial Council as may be prescribed.

(2) The President and Vice-President of the Provincial Council shall be Chairman and Vice-chairman, respectively, of the Executive Committee.

(3) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the Provincial Council, but subject to his being a member of the Provincial Council, he shall be eligible for re-election.

(4) The Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

30. Information to be furnished.—(1) The Provincial Council shall furnish such reports, copies of its minutes and of the minutes of the Executive Committee, and abstracts of its accounts to the Provincial Government as the Provincial Government may from time to time require and shall forward copies of all material so furnished to the Provincial Government to the Council.

(2) The Provincial Government may publish in such manner as it thinks fit any report, copy or abstract furnished to it under this section.

CHAPTER IV

REGISTRATION

31. Preparation and maintenance of register.—(1) The Provincial Government shall as soon as may be cause to be prepared in the manner hereinafter provided a register of dentists for the Province.

(2) The Provincial Council shall upon its constitution assume the duty of maintaining the register in accordance with the provisions of this Act.

(3) The register of dentists shall be maintained in two Parts, A and B, persons possessing recognised dental qualifications being registered in Part

A and persons not possessing such qualifications being registered in Part B.

(4) The register shall include the following particulars, namely :—

(a) the full name, nationality and residential address of the registered person ;

(b) the date of his first admission to the register ;

(c) his qualification for registration, and the date on which he obtained his degree or diploma in dentistry, if any, and the authority which conferred it ;

(d) his professional address ; and

(e) such further particulars as may be prescribed.

32. *First preparation of register.*—(1) For the purpose of first preparing the register of dentists, the Provincial Government shall, by notification in the official Gazette, constitute a Registration Tribunal consisting of three persons and shall also appoint a Registrar who shall act as Secretary of the Tribunal.

(2) The Provincial Government shall, by the same or a like notification, appoint a date on or before which application for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under section 33, shall direct the entry of the name of the applicant on the register.

(4) The register so prepared shall thereafter be published in such manner as the Provincial Government may direct, and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register as so published may, within thirty days from the date of such publication, appeal to an authority appointed by the Provincial Government in this behalf by notification in the official Gazette.

(5) The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered on the register a certificate of registration in the prescribed form.

(6) Upon the constitution of the Provincial Council, the register shall be given into its custody, and the Provincial Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the Provincial Council.

33. *Qualifications for entry on first preparation of register.*—(1) A person shall be entitled on payment of the prescribed fee to have his name entered on the register when it is first prepared, if he resides or carries on the profession of dentistry in the Province and if he—

(a) holds a recognised dental qualification, or

(b) does not hold such a qualification but, being a British subject of Indian domicile, has been engaged in practice as a dentist as his principal means of livelihood for a period of not less than five years prior to the commencement of this Act :

Provided that no person other than a British subject of Indian domicile shall be entitled to registration by virtue of a qualification.

(a) specified in Part I of the Schedule unless by the law and practice of the State or Country to which such person belongs persons of Indian origin holding dental qualifications registrable in that State or Country are permitted to enter and practice the profession of dentistry in such State or Country, or

(b) specified in Part II of the Schedule unless the Council has, in pursuance of a scheme of reciprocity, declared that qualification to be a recognised dental qualification :

Provided further that a person shall be entitled to registration by virtue of a qualification specified in Part III of the Schedule only if he is a British subject of Indian domicile :

Provided further that for the purposes of the first preparation of the register of dentists under this Act in the Province of West Bengal, a person shall be entitled to have his name entered in the appropriate Part of the register, if he is registered on the register of dental practitioners maintained under the Bengal Dentists Act, 1939 (Bengal Act XII of 1939), and no registration fee shall be payable by such person if he had been registered on or before 31st December 1947.

(2) A person domiciled in a Province of India shall be entitled on payment of the prescribed fee to temporary registration as a dentist for a period of five years, if he has been engaged in practice as a dentist as his principal means of livelihood for a period of not less than two years during the five years prior to the date of the commencement of this Act, and a person so registered shall be entitled to permanent registration if within a period of five years after that date he passes an examination which satisfies the requirements of the Council.

34. *Qualification for subsequent registration.*—After the date appointed under sub-section (2) of section 32 a person shall, on payment of the prescribed fee, be entitled to have his name entered on the register of dentists, if he resides or carries on the profession of dentistry in the Province and if he—

(i) holds a recognised dental qualification, or

(ii) does not hold such a qualification but, being a British subject of Indian domicile, has been engaged in practice as a dentist as his principal means of livelihood for a period of not less than two years before the commencement of this Act and has passed, within a period of five years after the commencement of this Act, an examination recognised for this purpose by the Council :

Provided that no person other than a British subject of Indian domicile shall be entitled to registration by virtue of a qualification.

(a) specified in Part I of the Schedule unless, by the law and practice of the State or country to which such person belongs persons of Indian origin holding dental qualifications registrable in that State or country are permitted to enter and practise the profession of dentistry in such State or country, or

(b) specified in Part II of the Schedule unless the Council has, in pursuance of a scheme of reciprocity, declared that qualification to be a recognised dental qualification :

Provided further that a person registered in Part B of the register shall be entitled to be registered in Part A thereof, if within a period of five years he passes an examination recognised for the purpose by the Council.

35. *Scrutiny of applications for registration.*—(1) After the date appointed for the receipt of applications for registration in the first register of dentists, all applications for registration shall be addressed to the Registrar of the Provincial Council and shall be accompanied by the prescribed fee.

(2) If upon such application the Registrar is of opinion that the applicant is entitled to have his name entered on the register, he shall enter thereon the name of the applicant :

Provided that no person, whose name has under the provisions of this Act been removed from the register of any Province, shall be entitled to have his name entered on the register except with the approval of the Provincial Council from whose register his name was removed.

(3) Any person whose application for registration is rejected by the Registrar may, within three months from the date of such rejection, appeal to the Provincial Council, and the decision of the Provincial Council thereon shall be final.

(4) Upon entry in the register of a name under this section, the Registrar shall issue a certificate of registration in the prescribed form.

36. Registers of dental hygienists and dental mechanics.—(1) The Provincial Government may by notification in the official Gazette direct that the Provincial Council shall maintain a register of dental hygienists or a register of dental mechanics.

(2) The provisions of section 35 shall so far as they may be made applicable, apply in respect of applications for registration in a register referred to in this section.

37. Qualification for registration as a dental hygienist.—A person shall be entitled on payment of the prescribed fee to have his name registered on the register of dental hygienists, if he resides in the Province and holds a recognised dental hygiene qualification.

Provided that for the purposes of the first register of dental hygienists, a person shall be entitled to be registered, if he has been engaged as a dental hygienist as his principal means of livelihood for a period of not less than two years prior to the date of notification under sub-section (1) of section 36.

38. Qualification for registration as a dental mechanic.—A person shall be entitled on payment of the prescribed fee to have his name entered in the register of dental mechanics, if he satisfies the prescribed requirements referred to in section 12.

Provided that for the purposes of the preparation of the first register of dental mechanics a person shall be entitled to be registered, if he has been engaged as a dental mechanic as his principal means of livelihood for a period of not less than two years prior to the date of notification under sub-section (1) of section 36.

39. Renewal fees.—(1) The Provincial Government may, by notification in the official Gazette, direct that for the retention of a name in a register after the 31st day of December of the year following the year in which the name is first entered in the register, there shall be paid annually to the Provincial Council such renewal fee as may be prescribed in respect of each register, and where such direction has been made, such renewal fee shall be due to be paid before the 1st day of April of the year to which it relates.

(2) Where a renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register.

Provided that a name so removed may be restored to the register on payment in such manner as may be prescribed.

(3) On payment of the renewal fee, the Registrar shall in the prescribed manner endorse the certificate of registration accordingly.

40. Entry of additional qualifications.—A registered dentist shall on payment of the prescribed fee be entitled to have entered in the register any further recognised qualification which he may obtain.

41. Removal from register.—(1) Subject to the provisions of this section, the Provincial Council may order that the name of any person shall be removed from any register where it is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make,—

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact, or

(ii) that he has been convicted of any offence or has been guilty of

any infamous conduct in any professional respect, which in the opinion of the Provincial Council renders him unfit to be kept in the register.

(2) An order under sub-section (1) may direct that any person whose name is ordered to be removed from a register shall be ineligible for registration in the Province under this Act either permanently or for such period of years as may be specified.

(3) An order under sub-section (1) shall not take effect until the expiry of three months from the date thereof.

(4) A person aggrieved by an order under sub-section (1) may, within thirty days from the date thereof, appeal to the Provincial Government, and the order of the Provincial Government upon such appeal shall be final.

(5) A person whose name has been removed from the register under this section or under sub-section (2) of section 39 shall forthwith surrender his certificate of registration to the Registrar, and the name so removed shall be published in the official Gazette.

42. *Restoration to register.*—The Provincial Council may at any time, for reasons appearing to it sufficient and subject to the approval of the Provincial Government, order that upon payment of the prescribed fee the name of a person removed from a register shall be restored thereto.

43. *Bar of jurisdiction.*—No order refusing to enter a name in a register or removing a name from a register shall be called in question in any Court.

44. *Issue of duplicate certificates.*—Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate in the prescribed form.

45. *Printing of registers.*—As soon as may be after the 1st day of April in each year, the Registrar shall cause to be printed copies of the registers as they stood on the said date and such copies shall be made available to persons applying therefor on payment of the prescribed charge, and shall be evidence that on the said date the persons whose names are entered therein were registered dentists, registered dental hygienists or registered dental mechanics, as the case may be.

46. *Effect of registration.*—(1) Any reference in any other law to a person recognised by law as a dentist shall be deemed to be a reference to a dentist registered under this Act.

(2) No certificate required by or under any other law from a dentist shall be valid unless the person signing it is registered as a dentist under this Act.

(3) After the expiry of two years from the commencement of this Act, a person who is not registered in Part A of the Provincial register of dentists shall not, except with the sanction of the Provincial Government, hold any appointment as dentist in any dispensary, hospital or other institution in the Province which is supported wholly or partially from public or local funds:

Provided that the provisions of this sub-section shall not apply to any such person who is holding such an appointment at the commencement of this Act.

(4) After the expiry of two years from the publication of a register of dental hygienists in a Province, no person whose name is not entered in that register shall hold appointment as dental hygienist in any dispensary, hospital or other institution in the Province which is supported wholly or partially from public or local funds.

(5) Any person who is a registered dentist, registered dental hygienist or registered dental mechanic in a Province may practise as such in any other Province.

CHAPTER V

MISCELLANEOUS

47. *Penalty for falsely claiming to be registered.*—If any person whose name is not for the time being entered in a register falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to five hundred rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both.

48. *Misuse of titles.*—If any person,—

(a) not being a person registered in a register of dentists ; takes or uses the description of dental practitioner, dental surgeon, surgeon-dentist, or dentist, or

(b) not being a person whose name is entered on a register of dental hygienists, takes or uses in a Province where such register has been published, the title of dental hygienist, or

(c) not being a person whose name is entered on a register of dental mechanics, takes or uses in a Province where such register has been published, the title of dental mechanic, he shall be punishable on first conviction with fine which may extend to five hundred rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both.

49. *Practice by unregistered persons.*—(1) After the expiry of two years from the commencement of this Act in the case of dentists, and in the Provinces where a register of dental hygienics or dental mechanics has been prepared under section 36 from such date as may be specified in this behalf by the Provincial Government by notification in the official Gazette, in the case of dental hygienists or dental mechanics, no person, other than a registered dentist, registered dental hygienist or registered dental mechanic, shall practise dentistry, or the art of scaling, cleaning or polishing teeth, or of making or repairing dentures and dental appliances, as the case may be, or indicate in any way that he is prepared to so practise :

Provided that the provisions of this section shall not apply to—

(a) practice of dentistry by a registered medical practitioner ;

(b) the extraction of a tooth by any person when the case is urgent and no registered dentist is available, so however that the operation is performed without the use of any general or local anaesthetic ;

(c) the performance of dental work or radiographic work in any hospital or dispensary maintained or supported from public or local funds.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to five hundred rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both.

50. *Failure to surrender certificate of registration.*—If any person whose name has been removed from a register fails without sufficient cause forthwith to surrender his certificate of registration, he shall be punishable with fine which may extend to fifty rupees per month of such failure and in the case of a continuing offence with an additional fine which may extend to two rupees per day after the first day during which the offence continues.

51. *Companies not to engage in dentistry.*—(1) Except as hereinafter provided, the profession of dentistry shall not be carried on by a company

or other corporate body.

(2) The provisions of sub-section (1) shall not apply to—

(a) a company or other corporate body which carries on no business other than the profession of dentistry or some business ancillary to the profession of dentistry and of which the majority of the directors and all the operating staff are registered dentists ;

(b) the carrying on of the profession of dentistry by employers who provide dental treatment for their employees by registered dentists otherwise than for profit ;

(c) the carrying on of the profession of dentistry by any hospital or dispensary or institution for the training of dentists or dental hygienists or by any local authority or other body authorised or required by law to provide dental treatment :

Provided that any company or other corporate body carrying on the profession of dentistry at the date of the commencement of this Act may continue so to do until the expiry of three years from such date.

(3) If any person contravenes the provisions of sub-section (1), he shall be punishable with fine which may extend, on first conviction to five hundred rupees, or on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both.

52. *Cognizance of offences.*—No Court shall take cognizance of any offence punishable under this Act except upon complaint made by order of the Provincial Government or the Provincial Council.

53. *Payment of part of fees to Council.*—The Provincial Council shall before the end of June in each year pay to the Council a sum equivalent to one-fourth of the total fees realised by the Provincial Council under this Act during the period of twelve months ending on the 31st day of March of that year.

54. *Appointment of Commission of Enquiry.*—(1) Whenever it appears to the Central Government that the Council is not complying with any of the provisions of this Act, the Central Government may appoint a Commission of Enquiry consisting of three persons, two of whom shall be appointed by the Central Government, one being the Judge of a High Court, and one by the Council ; and refer to it the matters on which the enquiry is to be made.

(2) The Commission shall proceed to enquire in a summary manner and report to the Central Government on the matters referred to it together with such remedies, if any, as the Commission may like to recommend.

(3) The Central Government may accept the report or remit the same to the Commission for modification or reconsideration.

(4) After the report is finally accepted, the Central Government may order the Council to adopt the remedies so recommended within such time as may be specified in the order and if the Council fails to comply within the time so specified, the Central Government may pass such order or take such action as may be necessary to give effect to the recommendations of the Commission.

(5) Whenever it appears to the Provincial Government that the Provincial Council is not complying with any of the provisions of this Act, the Provincial Government may likewise appoint a similar Commission of Enquiry in respect of the Provincial Council to make enquiry in like manner and pass such order or take such action as specified in sub-sections (3) and (4).

55. *Power to make rules.*—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry out the purposes of Chapters III, IV and V.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the management of the property of the Provincial Council, and the maintenance and audit of its accounts;

(b) the manner in which elections under Chapter III shall be conducted;

(c) the summoning and holding of meetings of the Provincial Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to form a quorum;

(d) the powers and duties of the President and Vice-President of the Provincial Council;

(e) the constitution and functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, the number of members necessary to constitute a quorum;

(f) the term of office and the powers and duties of the Registrar and other officers and servants of the Provincial Council, including the amount and nature of the security to be given by the Treasurer;

(g) the particulars to be stated, and the proof of qualifications to be given in applications for registration under this Act;

(h) the fees payable for registration, and the charge for supplying copies of the registers;

(i) the form of certificates of registration and the manner of enforcement or renewal thereof;

(j) any other matter which is to be or may be prescribed under Chapters III, IV and V, except sub-sections (1), (2), (3) and (4) of section 54.

THE SCHEDULE

(See section 10)

RECOGNISED DENTAL QUALIFICATIONS

Part I

Degrees or diplomas in dentistry issued by any of the following authorities :—

(1) Board of Examiners, Calcutta Dental College and Hospital if granted before the 1st day of January 1940.

(2) State Medical Faculty, Bengal, Calcutta, if granted after the 31st day of December 1939.

(3) The University of Bombay.

(4) The College of Physicians and Surgeons, Bombay.

(5) The Nair Hospital Dental Board, Bombay.

Part II

Degrees or diplomas in dentistry issued by the following authorities :—

(1) The Punjab University.

(2) The Punjab State Medical Faculty, Lahore.

(3) The Board of Examiners, College of Dentistry, Karachi, if granted before the 31st day of December 1943.

(4) The Royal College of Surgeons, England.

(5) The Royal College of Surgeons, Edinburgh.

(6) The Royal Faculty of Physicians and Surgeons of Glasgow.

(7) The Royal College of Surgeons, Ireland.

(8) The Universities of Durham, London, Manchester, Birmingham, Liverpool, Leeds, Sheffield, Bristol, St. Andrews and Belfast, and the National University of Ireland.

(9) Atlanta Southern Dental College, Atlanta, Georgia.

(10) College of Dentistry, University of Illinois, Chicago, Illinois.

(11) College of Dental Surgery, Loyola University, Chicago, Illinois.

- (12) North-Western University Dental College, Chicago, Illinois.
- (13) School of Dentistry, Indiana University, Indianapolis, Indiana.
- (14) College of Dentistry, University of Iowa City, Iowa.
- (15) Dental School, Harvard University, Boston, Massachusetts.
- (16) College of Dentistry, University of Nebraska, Omaha, Nebraska.
- (17) School of Dental and Oral Surgery, Columbia University, New York City.
- (18) University of Pennsylvania, Thomas Evans Dental Institute, School of Dentistry, Philadelphia, Pennsylvania.
- (19) Texas State Dental College, Houston, Texas.
- (20) University of Minnesota, Minnesota.
- (21) University of St. Louis, Missouri.
- (22) University of Michigan, Michigan.
- (23) Tufts College, Boston.
- (24) University of Toronto, Faculty of Dentistry, Toronto, Ontario.
- (25) Dental College of McGill University, Montreal, Quebec.
- (26) Deutsche Zahnärztliche Universitäts-Institut, Bonn.
- (27) Deutsche Zahnärztliche Universitäts-Institut, Munich.
- (28) Ecole Dentaire de Paris, Paris.
- (29) Ecole Dentaire Française, Paris.
- (30) Any other foreign qualification approved in this behalf by the Dental Council of India, or before the said Council is constituted, by the Central Government, by notification in the official Gazette.

Part III.

The following qualifications :—

- (1) Post-graduate certificate of dentistry of the University of Vienna (Z.D.S.)
- (2) Any other foreign qualification approved in this behalf by the Central Government by notification in the official Gazette.

The Indian Army and the Indian Air Force (Amendment) Act, 1948.

Received the assent of the Governor General on the 29th March 1948, and is published in the *Gazette of India*, Extraordinary, dated the 29th March 1948.

Act No. XVII of 1948.

An Act further to amend the Indian Army Act, 1911 and the Indian Air Force Act, 1932, for certain purposes and to make certain consequential amendments to the Administrator General's Act, 1913.

WHEREAS it is expedient further to amend the Indian Army Act, 1911 (VIII of 1911) and the Indian Air Force Act, 1932 (XIV of 1932) for the purposes hereinafter appearing and to make certain consequential amendments to the Administrator General's Act, 1913 (III of 1913) ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Army and the Indian Air Force (Amendment) Act, 1948.

2. *Amendment of section 114, Act VIII of 1911.*—In section 114 of the Indian Army Act, 1911,—

(i) in the opening paragraph for the word “rules” the word “provisions” shall be substituted and after the words “this Act” the words “not being an Indian commissioned officer,” shall be inserted ;

(ii) for clause (2) the following clause shall be substituted, namely :—

“(2) In the case of a deceased person who has left in a bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the agent, manager or other proper officer of such bank,

society or other institution to pay the deposit to him forthwith, notwithstanding anything in any rules of the bank, society or other institution, and when any money has been paid by such bank, society or other institution in compliance with such requisition, no person shall have any claim against the bank, society or other institution in respect of such money”;

(iii) in clause (4) after the words “cause the moveable property to be sold by public auction” the words “and may convert into money any cash certificates (including post-office cash certificates, defence savings certificates and national savings certificates)” and after the words “proceeds of the sale” the words “or conversion” shall be inserted;

(iv) clause (7) and the *Explanations* shall be omitted and clause (8) shall be renumbered (7);

(v) in clause (7) as so renumbered the words “or the Standing Committee of Adjustment, as the case may be” shall be omitted and after the words “a deceased person” the words “or deserter” shall be inserted.

3. *Substitution of new sections for section 116, Act VIII of 1911.*—For section 116 of the Indian Army Act, 1911, the following sections shall be substituted, namely:—

“116. *Application of sections 114 and 115 to lunatics, etc.*—The provisions of sections 114 and 115 shall, so far as they can be made applicable, apply in the case of a person subject to this Act, not being an Indian commissioned officer, who, notwithstanding anything contained in the Indian Lunacy Act, 1912 (IV of 1912), is ascertained in the prescribed manner to be insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained, or, as the case may be, on the day on which he is officially reported missing:

Provided that in the case of a person so reported missing no action shall be taken under clauses (2) to (5), inclusive, of section 114 until such time as such person is officially presumed to be dead.

116A. *Property of Indian commissioned officers who die or desert.*—The provisions of sections 116B to 116I, inclusive, shall apply to the disposal of the property of Indian commissioned officers subject to this Act, who die or desert.

116B. *Powers of Committee of Adjustment.*—(1) On the death or desertion of an Indian commissioned officer, a Committee of Adjustment appointed in this behalf in the manner prescribed (hereinafter referred to as the Committee) shall, as soon as may be, subject to the rules made in this behalf under this Act—

(a) secure all the moveable property belonging to the deceased or deserter, that is in camp or quarters, and cause an inventory thereof to be made, and ascertain and draw the pay and allowances, if any, due to him; and

(b) ascertain the amount, and provide for the payment, of the regimental and other debts in camp or quarters (if any) of the deceased or deserter.

(2) In the case of a deceased Indian commissioned officer whose representative, widow (if any) or next of kin has given security to the satisfaction of the Committee for the payment of the regimental and other debts in camp or quarters (if any) of the deceased, the Committee shall deliver any property received by it under sub-section (1) to that representative, widow or next of kin, as the case may be, and shall not further interfere in relation to the property of the deceased.

(3) In the case of a deceased Indian commissioned officer, the Committee, save as may be prescribed, shall if it appears to it necessary for the payment of regimental and other debts in camp or quarters and the expenses, if any, incurred by the Committee, and may, in any other case, collect

all moneys left by the deceased in any bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) and for that purpose may require the agent, manager or other proper officer of such bank, society or other institution to pay the moneys to the Committee forthwith, and such agent, manager or other officer shall be bound to comply with the requisition notwithstanding anything in any rules of the bank, society or other institution, and when any money has been paid by a bank, society or other institution in compliance with the requisition under this sub-section, no person shall have a claim against the bank, society or other institution in respect of such money.

(4) In the case of a deceased Indian commissioned officer whose estate has not been dealt with under sub-section (2) and in the case of a deserter, the Committee, subject to any rules made in this behalf under this Act, shall, for the purpose of paying the regimental and other debts in camp or quarters, and may in any other case, sell or convert into money the moveable property of the deceased or deserter.

(5) The Committee shall, out of the moneys referred to in sub-sections (3) and (4), pay the regimental and other debts in camp or quarters (if any) of the deceased or deserter.

(6) In the case of a deceased Indian commissioned officer the surplus (if any) shall be remitted to the prescribed person.

(7) In the case of an Indian commissioned officer who is a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to the Central Government unless the deserter shall in the meantime have surrendered or been apprehended :

Provided that the prescribed person may pay the whole or such part of the surplus as he may deem proper to the wife or children or other dependents of the commissioned officer.

(8) If in any case a doubt or difference arises as to what are the regimental and other debts in camp or quarters of a deceased officer or deserter or as to the amount payable therefor, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

(9) For the purpose of the exercise of its duties under this section, the Committee shall, to the exclusion of all authorities and persons whomsoever, have the same rights and powers as if it had taken out representation to the deceased, and any receipt given by the Committee shall have effect accordingly.

116C. *Power of Central Government to hand over the estate of a deceased officer to Administrator General.*—(1) Notwithstanding anything contained in the Administrator General's Act, 1913 (III of 1913), an Administrator General shall not interpose in any manner in relation to an property of a deceased Indian commissioned officer which has been dealt with under the provisions of section 116B except in so far as he is expressly required or permitted to do so by or under the provisions contained in this Chapter.

(2) The Central Government may at any time and in such circumstances as it thinks fit direct that the estate of a deceased Indian commissioned officer shall be handed over by the Committee to the Administrator General of a Province for administration and thereupon the Committee shall make over the estate to such Administrator General.

(3) Where under this section any estate is handed over to the Administrator General he shall administer the estate in accordance with the provisions of the Administrator General's Act, 1913 (III of 1913) :

Provided that the regimental and other debts in camp or quarters of

the deceased officer (if any) shall be paid in priority to any other debt due by him.

(4) The Administrator General shall pay the surplus, if any, remaining in his hands after discharging all debts and charges, to the heirs of the deceased and, if no heir is traceable, shall remit such surplus to the prescribed person in the prescribed manner.

(5) The Administrator General shall not charge in respect of his duties any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the regimental and other debts in camp or quarters.

116D: Disposal of surplus by the prescribed person.—On receipt of the surplus referred to in sub-section (6) of section 116B or sub-section (4) of section 116C, the prescribed person shall proceed as follows:—

(1) If he knows of a representative of the deceased, he shall pay the surplus to that representative.

(2) If he does not know of any such representative, he shall publish every year a notice in the prescribed form and manner for six consecutive years. If no claims to the surplus is made by a representative of the deceased within six months after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government:

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof.

116E: Disposal of effects not money.—Where any part of the estate of a deceased Indian commissioned officer consists of effects, securities or other property not converted into money, the provisions of section 116B and section 116D with respect to paying the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a representative of the deceased.

116F: Disposal of certain property without production of probate, etc.—Property deliverable and money payable to the representative of a deceased Indian commissioned officer under section 116B or section 116D may, if the total amount or value thereof does not exceed five thousand rupees, and, if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, succession certificate or other such conclusive evidence of title.

116G: Discharge of Committee, prescribed person and the Crown.—Any payment of money or delivery, application, sale or other disposition of any property or money made, or purported to be made, by the Committee or the prescribed person in good faith in pursuance of section 116B, section 116D, section 116E or section 116F shall be valid and shall be a full discharge to the Committee or the prescribed person, as the case may be, and to the Crown from all further liability in respect of that money or property; but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased officer against any person to whom such payment or delivery has been made.

116H: Property in the hands of the Committee or the prescribed person not to be assets at the place where the Committee or the prescribed person is stationed.—Any property coming under section 116B or under sub-section (4) of section 116C into the hands of the Committee or the prescribed person shall not, by reason of so coming, be deemed to be assets or effects at the

place in which that Committee or the prescribed person is stationed and it shall not be necessary by reason thereof that representation be taken out in respect of that property for that place.

116I. *Saving of rights of representative.*—After the Committee has deposited with the prescribed person the surplus of the property of any deceased officer under sub-section (6) of section 116B, any representative of the deceased or any Administrator General, shall as regards any property of the deceased not collected by the Committee and not forming part of the aforesaid surplus, have the same rights and duties as if section 116B had not been enacted.

116J. *Application of sections 116B to 116I to lunatics etc.*—The provisions of sections 116B to 116I shall, so far as they can be made applicable, apply in the case of an Indian commissioned officer who, notwithstanding anything contained in the Indian Lunacy Act, 1912 (IV of 1912), is ascertained in the prescribed manner to be insane, or who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained or, as the case may be, on the day on which he is officially reported missing :

Provided that in the case of an officer so reported missing no action shall be taken under sub-sections (2) to (5) of section 116B or under section 116C until such time as he is officially presumed to be dead.

116K. *Appointment of Standing Committee of Adjustment when officers die or desert while on active service.*—When an Indian commissioned officer dies or deserts while on active service, the references in the foregoing provisions of this Chapter to the Committee shall be construed as references to the Standing Committee of Adjustment, if any, appointed in this behalf in the manner prescribed.

116L. *Interpretation.*—For the purposes of this Chapter—

(1) the expression 'regimental and other debts in camp or quarters' includes money due as military debts, namely, sums due in respect of, or of any advance in respect of—

(a) quarters ;

(b) mess, band, and other regimental accounts ;

(c) military clothing, appointments and equipments, not exceeding a sum equal to three months' pay of the deceased, and having become due within eighteen months before his death ;

(2) 'representation' includes probate and letters of administration with or without the will annexed, and a succession certificate, constituting a person the executor or administrator of the estate of a deceased person or authorising him to receive or realize the assets of a deceased person ;

(3) 'representative' means any person who has taken out representation but does not include an Administrator General."

4. *Amendment of section 126, Act XIV of 1932.*—In section 126 of the Indian Air Force Act, 1932,—

(i) in the opening paragraph for the word "rules" the word "provisions" shall be substituted and after the words "this Act" the words "not being an officer or warrant officer of the Indian Air Force," shall be inserted ;

(ii) for clause (2) the following clause shall be substituted, namely :—

"(2) In the case of a deceased person who has left in a bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the agent, manager or other proper officer of such bank or other institution to pay the deposit to him forthwith, notwithstanding anything in any rules of the bank or the other institution and when any

money has been paid by such bank or other institution in compliance with such requisition, no person shall have any claim against the bank or the other institution in respect of such money.

(iii) in clause (4) after the words "cause the moveable property to be sold by public auction" the words "and may convert into money any cash certificates (including post office cash certificates, defence savings certificates and national savings certificates)" and after the words "proceeds of the sale" the words "or conversion," shall be inserted;

(iv) clause (7) and the *Explanations* shall be omitted and clause (8) shall be renumbered (7);

(v) in clause (7) as so renumbered the words "or the Standing Committee of Adjustment, as the case may be" shall be omitted and after the words "a deceased person" the words "or deserter" shall be inserted.

6. *Substitution of new sections for section 128, Act XIV of 1932.*—For section 128 of the Indian Air Force Act, 1932, the following sections shall be substituted, namely:—

"128. *Application of sections 126 and 127 to lunatics, etc.*—The provisions of sections 126 and 127 shall, so far as they can be made applicable, apply in the case of a person subject to this Act (not being an officer or warrant officer of the Indian Air Force) who notwithstanding anything contained in the Indian Lunacy Act, 1912 (IV of 1912) is ascertained in the prescribed manner to be insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained, or, as the case may be, on the day on which he is officially reported missing:

Provided that in the case of a person so reported missing, no action shall be taken under clauses (2) to (5) inclusive of section 126 until such such time as such person is officially presumed to be dead.

128A. *Property of officers of the Indian Air Force who die or desert.*—The provisions of sections 128B to 128I shall apply to the disposal of the property of the officers and warrant officers of the Indian Air Force who die or desert.

128B. *Powers of Committee of Adjustment.*—(1) On the death or desertion of an officer or warrant officer of the Indian Air Force, a Committee of Adjustment appointed in this behalf in the manner prescribed (hereinafter referred to as the Committee) shall, as soon as may be subject to the rules made in this behalf under this Act,—

(a) secure all the moveable property belonging to the deceased or deserter, that is in camp or quarters, and cause an inventory thereof to be made, and ascertain and draw the pay and allowances, if any, due to him; and

(b) ascertain the amount, and provide for the payment, of the service and other debts in camp or quarters (if any) of the deceased or deserter.

(2) In the case of a deceased officer or warrant officer whose representative, widow (if any) or next of kin has given security to the satisfaction of the Committee for the payment of the service and other debts in camp or quarters (if any) of the deceased, the Committee shall deliver any property received by it under sub-section (1) to that representative, widow or next of kin, as the case may be, and shall not further interfere in relation to the property of the deceased.

(3) In the case of a deceased officer or warrant officer, the Committee, save as may be prescribed shall, if it appears to it necessary for the payment of service and other debts in camp or quarters and the expenses, if any, incurred by the Committee, and may, in any other case, collect all moneys left by the deceased in any bank (including any post office savings bank, co-operative bank or society or any other institution receiving

deposits in money, however named) and for that purpose may require the agent, manager or other proper officer of such bank, society or other institution to pay the moneys to the Committee forthwith, and such agent, manager or other officer shall be bound to comply with the requisition notwithstanding anything in any rules of the bank or other institution; and when any money has been paid by a bank or other institution in compliance with the requisition under this sub-section, no person shall have a claim against the bank or other institution in respect of such money.

(4) In the case of a deceased officer or warrant officer whose estate has not been dealt with under sub-section (2) and in the case of a deserter the Committee, subject to any rules made in this behalf under this Act, shall, for the purpose of paying the service and other debts in camp or quarters, and may, in any other case, sell or convert into money the movable property of the deceased or deserter.

(5) The Committee shall, out of the moneys referred to in sub-sections (3) and (4), pay the service and other debts in camp or quarters (if any) of the deceased or deserter.

(6) In the case of a deceased officer or warrant officer, the surplus (if any) shall be remitted to the prescribed person.

(7) In the case of an officer or warrant officer who is a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall on the expiry of three years from the date of his desertion, be forfeited to the Central Government unless the deserter shall in the meantime have surrendered or been apprehended :

Provided that the prescribed person may pay the whole or such part of the surplus as he may deem proper to the wife or children or other dependents of the officer or warrant officer.

(8) If in any case a doubt or difference arises as to what are the service and other debts in camp or quarters of a deceased officer or deserter or as to the amount payable therefor, the decision of the prescribed person shall be final and shall be binding on persons for all purposes.

(9) For the purpose of the exercise of its duties under this section, the Committee shall, to the exclusion of all authorities and persons whomsoever, have the same rights and powers as if it had taken out representation to the deceased, and any receipt given by the Committee shall have effect accordingly.

128C. *Powers of Central Government to hand over the estate of a deceased officer to Administrator General.*—(1) Notwithstanding anything contained in the Administrator General's Act, 1913 (III of 1913), an Administrator General shall not interpose in any manner in relation to any property of a deceased officer or warrant officer which has been dealt with under the provisions of section 128B except in so far as he is expressly required or permitted to do so by or under the provisions contained in this Chapter.

(2) The Central Government may at any time and in such circumstances as it thinks fit direct that the estate of a deceased officer or warrant officer shall be handed over by the Committee to the Administrator General of a Province for administration and thereupon the Committee shall make over the estate to such Administrator General.

(3) Where under this section any estate is handed over to the Administrator General, he shall administer the estate in accordance with the provisions of the Administrator General's Act, 1913 (III of 1913) :

Provided that the service and other debts in camp or quarters of the deceased officer (if any) shall be paid in priority to any other debts due by him.

(4) The Administrator General shall pay the surplus, if any, remaining in his hands after discharge of all debts and charges, to the heirs of the

deceased and, if no heir is traceable, shall remit such surplus to the prescribed person in the prescribed manner.

(5) The Administrator General shall not charge in respect of his duties any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the service and other debts in camp or quarters.

128D. Disposal of surplus by the prescribed person.—On receipt of the surplus referred to in sub-section (6) of section 128B or sub-section (4) of section 128C, the prescribed person shall proceed as follows :—

(1) If he knows of a representative of the deceased, he shall pay the surplus to that representative.

(2) If he does not know of any such representative, he shall publish every year a notice in the prescribed form and manner for six consecutive years. If no claim to the surplus is made by a representative of the deceased within six months after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government :

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof.

128E. Disposal of effects not money.—Where any part of the estate of a deceased officer or warrant officer consists of effects, securities or other property not converted into money, the provisions of section 128B and section 128D with respect to paying the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property; and the prescribed person shall have the same power of converting the same into money as a representative of the deceased.

128F. Disposal of certain property without production of probate, etc.—Property deliverable and money payable to the representative of a deceased officer or warrant officer under section 128B or section 128D may, if the total amount or value thereof does not exceed five thousand rupees, and, if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, succession certificate or other such conclusive evidence of title.

128G. Discharge of Committee, prescribed person and the Crown.—Any payment of money or delivery, application, sale or other disposition of any property or money made, or purported to be made by the Committee or the prescribed person in good faith in pursuance of section 128B, section 128D, section 128E or section 128F shall be valid and shall be a full discharge to the Committee or the prescribed person, as the case may be, and to the Crown from all further liability in respect of that money or property; but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased officer or warrant officer against any person to whom such payment or delivery has been made.

128H. Property in the hands of the Committee or the prescribed person not to be assets at the place where the Committee or the prescribed person is stationed.—Any property coming under section 128B or under sub-section (4) of section 128C into the hands of the Committee or the prescribed person shall not, by reason of so coming, be deemed to be assets or effects at the place in which that Committee or the prescribed person is stationed and it shall not be necessary by reason thereof that representation be taken out in respect of that property for that place.

128I. Saving of rights of representative.—After the Committee has de-

posited with the prescribed person the surplus of the property of any deceased officer or warrant officer under sub-section (6) of section 128B, any representative of the deceased or any Administrator General, shall, as regards any property of the deceased not collected by the Committee and not forming part of the aforesaid surplus, have the same rights and duties as if section 128B had not been enacted.

128J. *Application of sections 128B to 128I to lunatics, etc.*—The provisions of sections 128B to 128I shall, so far as they can be made applicable, apply in the case of an officer or warrant officer of the Indian Air Force who, notwithstanding anything contained in the Indian Lunacy Act, 1912 (IV of 1912), is ascertained in the prescribed manner to be insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained or, as the case may be, on the day on which he is officially reported missing :

Provided that in the case of an officer or warrant officer so reported missing no action shall be taken under sub-sections (2) to (5) of section 128B or under section 128C until such time as he is officially presumed to be dead.

128K. *Appointment of standing committee of Adjustment when officers die or desert while on active service.*—When an officer or warrant officer dies or deserts while on active service, the references in the foregoing provisions of this chapter to the committee shall be construed as references to the standing Committee of Adjustment, if any, appointed in this behalf in the manner prescribed .

128L. *Interpretation.*—For the purposes of this chapter—

(1) the expression ‘service and other debts in camp or quarters’ includes money due as air force debts, namely, sums due in respect of, or of any advance in respect of—

(a) quarters ;

(b) mess, band, and other service accounts ;

(c) air force clothing, appointments and equipments, not exceeding a sum equal to three months’ pay of the deceased, and having become due within eighteen months before his death.

(2) ‘representation’ includes probate and letters of administration with or without the will annexed, and a succession certificate, constituting a person the executor or administrator of the estate of a deceased person or authorising him to receive or realize the assets of a deceased person ;

(3) ‘representative’ means any person who has taken out representation but does not include an Administrator General.”

6. *Amendment of sections 15, 16 and 17, Act III of 1913.*—In the Administrator General’s Act, 1913,—

(i) to section 15, after the words and figures “Regimental Debts Act, 1893” the words and figures “the Indian Army Act, 1911 (VIII of 1911) or the Indian Air Force Act, 1932 (XIV of 1932)” shall be added ;

(ii) in section 16, after the words and figures “the Regimental Debts Act, 1893” the words and figures “the Indian Army Act, 1911 (VIII of 1911) or the Indian Air Force Act, 1932 (XIV of 1932)” shall be inserted ; and

(iii) in section 17,—

(a) after the words and figures “the Regimental Debts Act, 1893”, at both places where they occur, the words and figures “the Indian Army Act, 1911 or the Indian Air Force Act, 1932” shall be inserted, and

(b) after the words “subject to the Army Act or the Air Force Act, the words and figures” or of an Indian commissioned officer subject to the Indian Army Act, 1911 (VIII of 1911) or of an officer or warrant officer of

the Indian Air Force subject to the Indian Air Force Act, 1932 (XIV of 1932)" shall be inserted.

The Protective Duties Continuation Act, 1948.

Received the assent of the Governor General on the 30th March 1948 and is published in the *Gazette of India*, Extraordinary, dated the 31st March 1948.

Act No. XVIII of 1948.

An Act to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect and further to amend the Sugar Industry (Protection) Act, 1932.

WHEREAS it is expedient to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), shall have effect, and further to amend the Sugar Industry (Protection) Act, 1932 (XIII of 1932), for the purpose herein-after appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Protective Duties Continuation Act, 1948.

2. *Amendment of First Schedule to Act XXXII of 1934.*—In the First Schedule to the Indian Tariff Act, 1934—

(i) In items Nos. 17, 28(5), 28(15), 28(17), 46, 46(1), 47, 47(1), 48, 48(1), 48(4), 48(5), 48(7), 48(10) and 61(5) in the column headed "Duration of protective rates of duty", for the figures "1948" wherever they occur, the figures "1949" shall be substituted.

(ii) In items Nos. 63(2) and 63(3) in the column headed "Name of article" for the words and brackets "(other than alloy, tool or special Steel)", the words and brackets "[other than alloy, tool or special Steel specified in item No. 63(30)]" shall be substituted.

(iii) For item No. 63(30) the following item shall be substituted, namely :—

"63(30) Rods or bars of alloy, tool or special steel of the following categories, but excluding precision ground and polished bars, bright drawn bars, blue reeled bars and silver steel finish bars :—

(1) High speed steel containing more than 13 per cent. tungsten,

(2) Stainless and heat resisting steel containing more than 11 per cent. chromium,

(3) Other alloy steels not included in category (i) or (ii) containing any of the following :—

(i) 0.40 per cent. or more of chromium or nickel ;

(ii) 0.10 per cent. or more of molybdenum, tungsten or vanadium ; or

(iii) 10.00 per cent. or more of manganese.

(a) of British Manufacture Protective 30% *ad val.* March 31st, 1949.

(b) not of British Manufacture Protective 42% *ad val.* March 31st, 1949.

3. *Amendment of Preamble and section 3 of Act XIII of 1932.*—In the preamble and section 3 of the Sugar Industry (Protection) Act, 1932, for the figures "1948" wherever they occur, the figures "1949" shall be substituted.

The Indian Tea Control (Amendment) Act, 1948.

Received the assent of the Governor General on the 30th March 1948 and is published in the *Gazette of India*, Extraordinary, dated the 31st March 1948.

Act No. XIX of 1948.

An Act further to amend the Indian Tea Control Act, 1948.

WHEREAS it is expedient further to amend the Indian Tea Control Act,

1938 (VIII of 1938), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Tea Control (Amendment) Act, 1948.

(2) It shall come into force on the 1st day of April 1948.

2. *Amendment of section 1, Act VIII of 1948.*—For sub-section (4) of section 1 of the Indian Tea Control Act, 1938 (hereinafter referred to as “the said Act”), the following sub-section shall be substituted, namely :—

“(4) It shall remain in force up to the 31st day of March, 1950.”

3. *Amendment of section 2, Act VIII of 1938.*—In section 2 of the said Act,—

(a) for clause (g) the following clause shall be substituted, namely :—

“(g) “standard export figure” means such quantity as the Central Government may by notification in the official Gazette specify.” ;

(b) in clauses (h) and (i) for the words “*Camellia Thea* (Linn)” wherever they occur, the words “*Thea sinensis*” shall be substituted.

4. *Amendment of section 11, Act VIII of 1938.*—To section 11 of the said Act, the following shall be added, namely :—

“or

(c) taken as part of the personal baggage of a passenger.”

5. *Amendment of section 12, Act VIII of 1938*—Sub-section (4) of section 12 of the said Act shall be omitted.

6. *Amendment of section 14, Act VIII of 1938.*—In sub-section (1) of section 14 of the said Act,—

(a) for the words and figures “under the Indian Tea Control Act, 1933”, the words and figures “before the 1st day of April, 1948” shall be substituted ; and

(b) for the words “within one year from the commencement of this Act”, the words “on application made within six months from the said date” shall be substituted.

7. *Amendment of section 26, Act VIII of 1938.*—In section 26 of the said Act,—

(a) for the figure “1943” the figure “1948” shall be substituted;

(b) for the proviso the following shall be substituted, namely :—

“Provided that this section shall apply to the replacing of tea areas by planting new areas, but nothing in this section shall prohibit—

(a) the infilling or supplying of vacancies on land planted with tea on or before the 31st day of March, 1948 or the replanting of tea upon—

(i) land planted with tea on or before the 31st day of March, 1948 from which the original bushes have been uprooted ; or

(ii) land planted with tea on or before the 31st day of March, 1946 from which the original bushes have been uprooted ; or

(b) the replacing of tea areas which are worn out on or before the 31st day of March 1948, by planting tea on area not planted with tea to the same extent but not exceeding five per cent. in each year of the total permissible acreage of the tea estate as on or before the 31st day of March 1948, subject to such replacement being accompanied by simultaneous uprooting of the tea bushes in the area so replaced.

8. *Amendment of section 27, Act VIII of 1938.*—In section 27 of the said Act,—

(1) in sub-sections (1) and (2),—

(a) for the words “up to one-half of one per cent.” the words “up to four per cent.” shall be substituted ;

(b) for the figure “1943”, the figure “1948” shall be substituted ; and

(c) the words beginning with “had the extension” and ending with “by one-half of one per cent.” shall be omitted ; and

(2) in sub-section (3), for the figure "1943" the figure "1948" shall be substituted.

9. *Amendment of section 28, Act VIII of 1938.*—In sub-section (1) of section 28 of the said Act, for the figure "1943", at both places where it occurs, the figure "1948" shall be substituted.

10. *Amendment of section 29, Act VIII of 1938.*—In sub-section (1) of section 29 of the said Act, after clause (b), the following shall be inserted, namely :—

"or

(c) has since been resumed by the lessor under the terms of any lease and no longer carries tea";

11. *Amendment of section 30, Act VIII of 1938.*—The proviso to sub-section (1) of section 30 of the said Act shall be omitted.

12. *Amendment of section 33, Act VIII of 1938.*—In section 33 of the said Act, the words, brackets and figures "sub-section (4) of section 12 or" shall be omitted.

13. *Amendment of section 40, Act VIII of 1938.*—In sub-section (1) of section 40 of the said Act, after the words "cease to be imposed" the words "or if it considers it necessary so to do for any other reason" shall be inserted.

The Indian Finance Act, 1948.

Received the assent of the Governor General on the 30th March 1948, and is published in the *Gazette of India*, Extraordinary, dated the 31st March 1948.

Act No. XX of 1948.

An Act to give effect to the financial proposals of the Central Government for the year beginning on the first day of April, 1948.

WHEREAS it is expedient to discontinue the duty on salt manufactured in, or imported into, the Provinces of India, to fix maximum rates of, postage under the Indian Post Office Act, 1898 (VI of 1898), to alter certain duties of customs and excise, to levy certain additional duties of customs and excise, to fix rates of, and make certain provisions relating to, income-tax and super-tax, and to continue, subject to certain modifications, for a period of one year the tax imposed by the Business Profits Tax Act, 1947 (XXI of 1947);

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Indian Finance Act, 1948.

(2) It extends to all the Provinces of India.

2. *Discontinuance of salt duty.*—For the year beginning on the 1st day of April, 1948, no duty shall be levied on salt manufactured in, or imported by sea or by land into, the Provinces of India.

3. *Inland postage rates.*—For the year beginning on the 1st day of April, 1948, the Schedule contained in the First Schedule to the Indian Finance Act, 1945, shall again be inserted in the Indian Post Office Act, 1898 (VI of 1898), as the First Schedule to that Act.

4. *Alteration of certain duties of customs.*—In the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934),—

(a) in Item No. 24, for the entry in the fourth column, the entry "Rs. 13 per lb." shall be substituted;

(b) in Item No. 24 (1), in the entry in the fourth column, for the letters and figures "Rs. 7-8", the letters and figures "Rs. 12-8" shall be substituted;

(c) in Item No. 24 (2), in the entry in the fourth column, for the words, letters and figures "Rs. 18-12 per thousand or Rs. 7-8 per lb." the words, letters and figures "Rs. 31-4 per thousand or Rs. 12-8 per lb." shall be substituted; and

(d) in Item No. 75 (1), for the figures "37½" in the fourth column, the figures "50" shall be substituted, and for the figures "30" in the fifth column, the figures "42½" shall be substituted.

5. *Additional duties of customs.*—Where any goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), or under the said Schedule read with any notification of the Central Government for the time being in force, are assessed to duty, there shall, up to the 31st day of March, 1949, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable—

(a) a sum equal to one-half of such amount, in the case of goods comprised in Items Nos. 22 (3) and 22 (4) and sub-items (a), (c) and (d) of Item No. 22 (5) of the said Schedule, and

(b) a sum equal to one-fifth of such amount, in any other case :

Provided that such additional duty of customs shall not be levied and collected on the goods specified in the First Schedule to this Act.

6. *Imposition and alteration of certain export duties.*—In the Second Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), Items Nos. 6 and 7 shall be omitted, and in lieu thereof, the following Items shall be inserted, namely :—

"6. Cloth of any description manufactured either wholly from cotton or partly from cotton and partly from any other substance and containing not less than ten per cent. of cotton by weight, but excluding cloth of hand-loom manufacture	... 25 per cent. ad valorem.
7. Manganese ore	... 25 per cent. ad valorem.
8. Oil seeds	... Rs. 80 per ton
9. Vegetable oils	... Rs 160 per ton

7. *Imposition and alteration of certain duties of excise.*—(1) In the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944),—

(a) in each of the sub-items (1) and (2) of item No. 2,—

(i) clause (i) shall be omitted,

(ii) clauses (ii), (iii) and (iv) shall be renumbered as clauses (i), (ii) and (iii), respectively, and

(iii) in clause (i) as so renumbered, the words "more than forty, but" shall be omitted ;

(b) in Item No. 9,—

(i) for the entry in the third column against sub-item I (2) (b), the entry "Twelve annas" shall be substituted ;

(ii) in the entries in the third column against sub-item I (3), for the words "Nine annas", at both places where they occur, the words "Twelve annas" shall be substituted, and for the words "Three annas", at all the three places where they occur, the words "Four annas" shall be substituted ; and

(iii) in sub-item II, before the word "Cigars", the brackets and figures "(1)" shall be inserted, and to that sub-item, the following shall be added, namely :—

"(2) Cigarettes of which the value—

(i) exceeds Rs. 50 a thousand	... <i>Per thousand</i> Twelve rupees and eight annas.
(ii) exceeds Rs. 40 a thousand but does not exceed Rs. 50 a thousand.	... Ten rupees.
(iii) exceeds Rs. 30 a thousand but does not exceed Rs. 40 a thousand.	... Seven rupees and eight annas.

	<i>Per thousand.</i>
(iv) exceeds Rs. 25 a thousand but does not exceed Rs. 30 a thousand.	... Six rupees and four annas.
(v) exceeds Rs. 20 a thousand but does not exceed Rs. 25 a thousand.	... Five rupees.
(vi) exceeds Rs. 15 a thousand but does not exceed Rs. 20 a thousand.	... Three rupees and twelve annas.
(vii) exceeds Rs. 10 a thousand but does not exceed Rs. 15 a thousand.	... Two rupees and eight annas.
(viii) does not exceed Rs. 10 a thousand	... One rupee and four annas.”;

(c) in Item No. 10, for the words “Ten per cent.” the words “Fifteen per cent.” shall be substituted ;

(d) in Item No. 11, for the words “Five rupees” the words “Seven rupees” shall be substituted ;

(e) Item No 12 shall be omitted ;

(f) in Item No. 13, for the words “Two annas” the words “Three annas” shall be substituted ; and

(g) in Item No. 14, for the words “Two annas” the words “Three annas” shall be substituted.

(2) In Part A of the Second Schedule to the Central Excises and Salt Act, 1944 (I of 1944), the figure and word “2. Betel-nuts” shall be omitted, and for the figure “3”, the figure “2” shall be substituted.

8. *Amendment of Act XI of 1922.*—The following amendments shall be made in the Indian Income-tax Act, 1922 :—

(1) In section 2, after clause (7), the following clause shall be inserted, namely :—

“(7A) ‘Indian company’ means a company as defined in the Indian Companies Act, 1913 (VII of 1913), the registered office of which is situate in British India ;”.

(2) In *Explanation* 3 to sub-section (1) of section 4, after the words “dividend paid”, the words “by an Indian company” shall be inserted.

(3) In clause (xii) of sub-section (3) of section 4, for the figures “1948” the figures “1950” shall be substituted.

(4) In sub-clause (a) of clause (vi) of sub-section (2) of section 10, for the figures “1948” the figures “1950” shall be substituted.

(5) After section 15A, the following section shall be inserted, namely :—

“15B. *Exemption on account of donations for charitable purposes.*—(1) The tax shall not be payable by an assessee in respect of any sums paid by him as donations to any institution or fund which is established in British India for a charitable purpose and is approved by the Central Government for the purposes of this section :

Provided that the total of the sums so paid is not less than two hundred and fifty rupees :

Provided further that in the case of a company this exemption shall apply only in respect of the income-tax, and not in respect of any super-tax, payable by it.

Explanation.—In this section, ‘charitable purpose’ includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

(2) The aggregate of any sums exempted under this section shall not exceed—

(a) one-twentieth in the case of a company, and one-tenth in any other case, of the assessee’s total income as reduced by any portion thereof exempt from tax under any other provision of this Act, or

(b) two hundred and fifty thousand rupees, whichever is less.

(3) The amount by which the tax payable by an assessee is reduced on account of an exemption under this section shall not in any case exceed half the amount in respect of which the exemption is allowed under this section."

(6) In section 16, in clause (a) of sub-section (1), for the words and figures "section 14 and section 15", the words, figures and letter "section 14, section 15 and section 15B" shall be substituted; and in sub-section (2), for the words "of a company" the words and brackets "of the company (without taking into account any rebate allowed or additional income-tax charged)" shall be substituted.

(7) In sub-section (3) of section 17, after the words and figures "of section 14" the words, figures and letter or under section 15B" shall be inserted.

(8) In sub-section (3E) of section 18, for the words "by a company" the words "by an Indian company or by a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from such dividends" shall be substituted.

(9) In section 19A, after the words "every company", the words "which is an Indian company or a company which has made such effective arrangements as may be prescribed for the declaration and payment of dividends in British India" shall be inserted.

(10) In section 49B, for the words "such person shall be deemed" the words "such person shall, if the dividend is included in his total income, be deemed" shall be substituted, and for the words "total income of a company" the words "total income of the company" shall be substituted.

9. *Income-tax and super-tax.*—(1) Subject to the provisions of sub-sections (3), (4), (5) and (6), for the year beginning on the 1st day of April, 1948,—

(a) income-tax shall be charged at the rates specified in Part I of the Second Schedule to this Act, and

(b) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereafter in this section referred to as "the Income-tax Act"), be those specified in Part II of the Second Schedule to this Act.

(2) In making any assessment for the year ending on the 31st day of March, 1949, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income, but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1949,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities", or any income from dividends in respect of which he is deemed under section 49B of the Income-tax Act to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1947 (XX of 1947), on his total income the same proportion as the amount of such inclusions bears to his total income;

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an

amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Indian Finance Act, 1947 (XX of 1947), on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1949, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(i) on that part of the earned income chargeable under the head "Salaries" to which clause (b) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that sub-section, *plus*—

(ii) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, *plus*—

(iii) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) In making any assessment for the year ending on the 31st day of March, 1949,—

(a) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount computed at the rate of two annas in the rupee on that part of its total income which consists of such inclusion ;

(b) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusion bears to his total income, so, however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(6) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3), (4) and (5) of this section.

(7) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1948, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries", the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(8) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax as the case may be, in accordance with the provisions of the Income-tax Act and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

10. *Amendment of Act XXI of 1947.*—The following amendments shall

be made in the Business Profits Tax Act, 1947 :—

(1) In clause (1) of section 2, after the words “chargeable accounting period” the words and figures “ending on or before the 31st day of March 1947”, shall be inserted, and after the words “the period of one year” the following shall be inserted, namely :—

“and, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, such sum as may be fixed by the annual Finance Act.”

(2) In sub-clause (a) of clause (4) of section 2, for the figures “1947” the figures “1948” shall be substituted, and to the said clause (4), the following proviso shall be added, namely :—

“Provided that where an accounting period falls partly before, and partly after, the end of March, 1947, so much of that accounting period as falls before, and so much of that accounting period as falls after, the end of March, 1947, shall be deemed each to be a separate chargeable accounting period”.

(3) In section 4, for the words “which shall be equal to sixteen and two-thirds per cent. of the taxable profits”, the following shall be substituted, namely :—

“which shall, in respect of any chargeable accounting period ending on or before the 31st day of March, 1947, be equal to sixteen and two-thirds per cent. of the taxable profits, and in respect of any chargeable accounting period beginning after that date, be equal to such percentage of the taxable profits as may be fixed by the annual Finance Act.”

11. *Business Profits Tax.*—(1) The tax imposed by section 4 of the Business Profits Tax Act, 1947 (XXI of 1947), shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, be an amount equal to ten per cent. of the taxable profits.

(2) For the purposes of the said Act, “abatement” shall mean, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, a sum which bears—

(a) in the case of a company not being a company deemed for the purposes of section 9 of the said Act to be a firm, to a sum equal to six per cent. of the capital of the company on the first day of the said period, computed in accordance with Schedule II to the said Act, or two lakhs of rupees, whichever is greater, or

(b) in any other case, to two lakhs of rupees.
the same proportion as the said period bears to the period of one year.

THE FIRST SCHEDULE

(See section 5)

Goods on which additional duty of customs is not leviable.

A. Goods comprised in the following Items of the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), namely :—

Nos. 8 (2), 8 (3), 9 (5), 20 (1), 20 (3), 20 (4), 24, 24 (1), 24 (2), 24 (3), 25 (1), 27 (4), 27 (5), 27 (6), 28 (15), 28 (16), 28 (17), 28 (18), 29, 29 (1), 30 (9), 30 (10), 43, 44, 46 (3), 61 (2), 61 (3), 62 (1), 62 (2), 63 (30), 63 (31), 63 (32), 63 (33), 70 (2), 70 (3), 71 (7), 71 (8), 72, 72 (1), 72 (2), 72 (3), 72 (11), 75 (1), 75 (5), 75 (6), 75 (7), 75 (8).

B. Goods comprised in the following items of the First Schedule to the Indian Tariff Act, 1934, when the Customs Collector is satisfied that such goods are the produce or manufacture of Burma, namely :—

No. 7 (potatoes and onions only) and Nos. 9, 9 (3), 13 (2), 17 and 34 (4) (a).

THE SECOND SCHEDULE

(See section 9)

PART I

Rates of Income-tax

A. In the case of every individual, Hindu undivided family unregistered firm and other association of persons, not being a case to which paragraph B, C or D of this Part applies—

	Rate
1. On the first Rs. 1,500 of total income	... Nil.
2. On the next Rs. 3,500 of total income	... One anna in the rupee.
3. On the next Rs. 5,000 of total income	... Two annas in the rupee.
4. On the next Rs. 5,000 of total income	... Three and a half annas in the rupee.
5. On the balance of total income	... Five annas in the rupee :

Provided that—

(i) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 3,000 ;

(ii) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds Rs. 3,000;

(iii) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either —

(a) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 3,000 the same proportion as such reduced total income bears to the unreduced total income, or

(b) the income-tax payable on the income so reduced at the rates herein specified, —

whichever is less.

B. In the case of every company, not being a company to which paragraph C of this Part applies—

	Rate
On the whole of total income	... Five annas in the rupee :

Provided that in the case of an Indian company —

where the total income, as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at the fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1949, and no order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922 (XI of 1922), a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess ;

(b) where the amount of dividends referred to in clause (a) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend ; and

(c) the income-tax payable, after deducting any rebate permissible under clause (a), but without including any additional income-tax chargeable under clause (b), shall not exceed the aggregate of—

(i) the income-tax which would have been payable under the provisions of paragraph C of this Part if the total income had been Rs. 25,000, and

(ii) half the amount by which the total income exceeds Rs. 25,000.

For the purposes of clause (b) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows :—

(i) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year ;

(ii) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(a) if an order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(b) in respect of any other year, at the rate applicable to the total income of the company for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every Indian company the total income of which does not exceed Rs. 25, 000—

	Rate
On the whole of total income	... Two and a half annas in the rupee.

Provided that where the total income, as reduced by four and a half annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1949, and no order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, a rebate shall be allowed at the rate of half anna per rupee on the amount of such excess.

D. In the case of every local authority and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	... Five annas in the rupee.

Explanation—For the purposes of this Part,—

(a) the expression “dividend” shall be deemed to include any distribution included in that expression as defined in clause (6A) of section 2 of the Indian Income-tax Act, 1922, and any such distribution made during the year ending on the 31st day of March, 1949, shall be deemed to have been made in respect of the whole or part of the previous year ;

(b) the expression “Indian company” shall have the meaning assigned to it in clause (7A) of section 2 of the Indian Income-tax Act, 1922.

PART II

Rates of Super-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate, if income wholly earned	Rate, if income wholly unearned
1. On the first Rs. 25,000 of total income.	Nil	Nil
2. On the next Rs. 15,000 of total income.	Two annas in the rupee.	Three annas in the rupee.
3. On the next Rs. 15,000 of total income.	Three annas in the rupee.	Four and a half annas in the rupee.
4. On the next Rs. 15,000 of total income.	Five annas in the rupee.	Six annas in the rupee.
5. On the next Rs. 15,000 of total income.	Six annas in the rupee.	Seven annas in the rupee.
6. On the next Rs. 15,000 of total income.	Six and a half annas in the rupee.	Eight annas in the rupee.
7. On the next Rs. 50,000 of total income.	Seven annas in the rupee.	Nine annas in the rupee.
8. On the next Rs. 1,00,000 of total income.	Nine and a half annas in the rupee.	Nine and a half annas in the rupee.
9. On the next Rs. 1,00,000 of total income.	Ten annas in the rupee.	Ten annas in the rupee.
10. On the balance of total income.	Ten and a half annas in the rupee.	Ten and a half annas in the rupee.

B. In the case of every local authority—

Rate

On the whole of total income ... Two annas in the rupee.

C. In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912 (II of 1912), or under an Act of a Provincial Legislature governing the registration of co-operative societies—

Rate

(1) On the first Rs. 25,000 of total income

• Nil

(2) On the balance of total income

... Two annas in the rupee.

D. In the case of every company—

Rate

On the whole of total income

... Three annas in the rupee :

Provided that a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, in respect of its profits liable to tax under the Indian Income-tax Act, 1922, for the year ending on the 31st day of March, 1949, has made the prescribed arrangements—

(a) for the declaration and payment in the Provinces of India of the dividend payable out of such profits, and

(b) for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of the said Act.

The Indian Railways (Amendment) Act, 1948.

Received the assent of the Governor General on the 3rd April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd April 1948.

Act No. XXI of 1948.

An Act further to amend the Indian Railways Act, 1890.

WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Railways (Amendment) Act, 1948.

2. *Amendment of section 1, Act IX of 1890.*—For sub-section (2) of section 1 of the Indian Railways Act, 1890 (hereinafter referred to as “the said Act”), the following sub-section shall be substituted, namely:—

“(2) It extends to the whole of India.”

3. *Amendment of section 3, Act IX of 1890.*—In clause (22) of section 3 of the said Act, after the words “Provincial Government”, the words “in relation to a minor railway wholly situate in an Acceding State, the Government of that State” shall be inserted.

4. *Amendment of section 8A, Act IX of 1890.*—To section 8A of the said Act, the following words shall be added, namely:—

“or the doing of anything on or to any works, lands or buildings vested in, or in the possession of, the Government of an Acceding State without the consent of that Government.”

5. *Amendment of section 79, Act IX of 1890.*—In section 79 of the said Act, after the words “the Government”, the words “or an Acceding State” shall be inserted.

6. *Insertion of new section 144 in Act IX of 1890.*—After section 143 of the said Act, the following section shall be inserted, namely:—

“144. *Application of Act to Acceding States.*—In the application of this Act to any Acceding State, references to the Provincial Government in clause (18) of section 3 and in sections 11, 12, 51 and 83 shall be construed as references to the Government of the Acceding State, and references to an enactment in force in the provinces of India but not in force in the Acceding State shall be construed as references to the corresponding law, if any, of that State.”

The Indian Power Alcohol Act, 1948.

Received the assent of the Governor General on the 3rd April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd April 1948.

Act No. XXII of 1948.

An Act to provide for the development of the power alcohol industry.

WHEREAS it is expedient in the public interest that the power alcohol industry should be developed under the control of the Central Government;

It is hereby enacted as follows:—

1. *Short title, extent and duration.*—(1) this Act may be called the Indian Power Alcohol Act, 1948.

(2) It extends to all the Provinces of India.

(3) This Act or such portion thereof shall come into force in such area, and on such date as the Central Government may, by notification in the official Gazette, specify in this behalf.

2. *Declaration as to expediency of Central Government's control.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the power alcohol industry.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "molasses" means the heavy, dark-coloured residual syrup drained away in the final stage of the manufacture of sugar by vacuum pans in sugar factories either from sugarcane or by refining *gur*, when such a syrup has fermentable sugars (expressed as reducing sugars), but does not include the final residual syrup left in the manufacture of sugar by the open pan process;

(b) "petrol" means dangerous petroleum as defined in clause (b) of section 2 of the Petroleum Act, 1934 (XXX of 1934);

(c) "power alcohol" means ethyl alcohol containing not less than 99.5 per cent. by volume of ethanol measured at sixty degrees Fahrenheit corresponding to 74.4 over proof strength.

4. *Production of power alcohol.*—(1) No person shall manufacture power alcohol from any substance other than molasses or such other substance as may be specified by the Central Government.

(2) If any dispute arises as to whether any substance is or is not molasses the decision of an officer, authorized by the Central Government in this behalf, regarding such dispute shall be final and shall not be called in question in any Court.

5. *Power to regulate production and disposal of power alcohol.*—The Central Government may regulate the production and disposal of power alcohol by any distillery situated in any area in which this section is for the time being in force.

6. *Power to direct use of power alcohol as motive power.*—(1) The Central Government may, by notification in the *official Gazette*, direct that in such area as may be specified therein no petrol shall be sold or kept for sale except with an admixture of power alcohol.

(2) The proportion of petrol and power alcohol in such mixture shall in any area and for any purpose be such as may from time to time be specified by the Central Government but such proportion of power alcohol in the case of mixture with petrol meant for use as motive power for any motor vehicle shall not be more than twenty-five per cent. or less than five per cent. by volume.

(3) The power alcohol to be employed for such mixture shall be obtained from such distilleries as may, from time to time, be specified by the Central Government.

7. *Penalty.*—Whoever contravenes any of the provisions of sections 4 and 6 or any order of the Central Government issued thereunder shall be punishable with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and in the case of a continued contravention with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after conviction therefor.

8. *Delegation of Powers.*—The Central Government may, by notification in the *official Gazette*, direct that any power conferred by this Act shall, subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such Provincial Government or such other officer or authority subordinate to a Provincial Government as may be specified in the direction.

9. *Offences to be bailable*—All offences punishable under this Act or any rule made thereunder shall be bailable within the meaning of the Code of Criminal Procedure, 1898 (V of 1898).

10. *Power to make rules*.—(1) The Central Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may—

(a) provide for the licensing of the manufacture of power alcohol;

(b) prescribe the specifications and tests in respect of the purity of power alcohol intended for admixture with petrol in order to ensure its suitability for use in motor vehicles;

(c) fix the price at which power alcohol may be sold for the purpose of admixture with petrol;

(d) provide for imposing and collecting a duty of excise on power alcohol intended for admixture with petrol;

(e) prescribe conditions in respect of the transport and storage of power alcohol intended for admixture with petrol and for the manner in which the admixture is to be affected;

(f) prescribe the submission by a manufacturer of power alcohol or importer or distributor of petrol of returns regarding the power alcohol and petrol manufactured, purchased, stored or sold, as the case may be;

(g) provide for denaturing of power alcohol at the distilleries;

(h) provide for any other matter which is to be or may be prescribed under this Act.

(3) Rules made under this Act may provide that any contravention of such rules shall render the offender liable on conviction to a fine not exceeding one thousand rupees.

11. *Power of exemption*—Notwithstanding anything contained in this Act, the Central Government may, by notification in the *Official Gazette* declare that any of the provisions of this Act shall not apply to any case or class of cases.

The Taxation on Income (Investigation Commission) (Amendment) Act, 1948.

Received the assent of the Governor General on the 12th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 12th April 1948.

Act No. XXIII of 1948.

An Act to amend the Taxation on Income (Investigation Commission) Act, 1947

WHEREAS it is expedient to amend the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title*.—This Act may be called the Taxation on Income (Investigation Commission) (Amendment) Act, 1948.

2. *Amendment of section 4, Act XXX of 1947*.—After sub-section (2) of section 4 of the Taxation on Income (Investigation Commission) Act,

1947 (hereinafter referred to as the said Act), the following sub-section shall be added, namely :—

“(3) The Commission shall be appointed to act, in the first instance, up to the 31st day of March, 1950, but the Central Government may extend its term of appointment for any period up to the 31st day of March 1951.

(4) The Central Government may appoint a Secretary to the Commission and such other staff as may be necessary.”

3. *Substitution of new section 5, Act XXX of 1947.*—For section 5 of the said Act, the following section shall be substituted, namely :—

“5. *Power of Central Government to refer cases for investigation.*—(1) The Central Government may at any time before the 30th day of June 1948 refer to the Commission for investigation and report any case or points in a case which the Central Government has *prima facie* reasons for believing that a person has to a substantial extent evaded payment of taxation on income, together with such material as may be available in support of such belief, and may at any time before the 30th day of June 1948 apply to the Commission for the withdrawal of any case or points in a case thus referred, and if the Commission approves of the withdrawal, no further proceedings shall hereafter be taken by or before the Commission in respect of the case or points so withdrawn.

(2) The Commission may, after examining the material submitted by the Central Government with reference to any case or points in a case and making such investigation, as it considers necessary, report to the Central Government that in its opinion further investigation is not likely to reveal any substantial evasion of taxation on income and on such report being made the investigation shall be deemed to be closed.

(3) No reference made by the Central Government under sub-section (1), at any time before the 30th day of June, 1948 shall be called in question, nor shall the sufficiency of the material on which such a reference has been made be investigated in any manner by any Court.

(4) If in the course of investigation into any case or points in a case referred to it under sub-section (1), the Commission has reason to believe—

(a) that some person other than the person whose case is being investigated has evaded payment of taxation on income, or

(b) that some points other than those referred to it by the Central Government in respect of any case also require investigation,

it may make a report to the Central Government stating its reasons for such belief and, on receipt of such report, the Central Government shall, notwithstanding anything contained in sub-section (1), forthwith refer to the Commission for investigation the case of such other person or such additional points as may be indicated in that report.”

4. *Substitution of new section for section 6, Act XXX of 1947.*—For section 6 of the said Act, the following section shall be substituted, namely :—

“6. *Powers of Commission.*—(1) The Commission shall have power to require any person to prepare and furnish by a specified date written statements of accounts and affairs verified on oath and, if so required, also duly certified by a qualified auditor, giving information on such points and matters as may be specified; and any person so required shall notwithstanding anything in any law to the contrary be bound to comply with the requirements of the Commission.

(2) The Commission shall also have power to administer oaths, and

shall have all the powers of a civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of taking evidence on oath, enforcing the attendance of witnesses and of persons whose cases are being investigated, compelling the production of documents and issuing commissions for the examination of witnesses.

(3) If in the course of any investigation it appears to the Commission to be necessary to examine any accounts or documents or to interrogate any person or obtain any statements from any person, the Commission may authorise any income-tax authority not below the rank of an Income-tax Officer (hereinafter referred to as the "authorised official") in that behalf, subject to such directions as may be issued by the Commission from time to time, and the authorised official shall examine the accounts or documents, interrogate the person or obtain the statements from the person :

Provided that the authorised official shall in the discharge of his duties be entitled to employ such ministerial and subordinate executive staff as he may consider necessary.

(4) The authorised official shall subject to the direction of the Commission have the same powers as the Commission under sub-sections (1) and (2), and any person having charge or custody of accounts or documents required to be examined shall notwithstanding anything in any law to the contrary be bound to produce them to the authorised official and to give to such official any information in respect thereof which he may require and any person interrogated by the authorised official or called upon by him to make or prepare a statement or furnish information shall notwithstanding anything in any law to the contrary be bound to comply with his directions and answer all questions relating to the case put to him by such official.

(5) If any person whose case or the points in whose case is or are being investigated by the Commission refuses or fails to attend in person in compliance with a notice in that behalf duly served upon him or to give any evidence or to answer questions or to produce documents or to prepare and furnish statements when called upon to do so, the Commission may, if satisfied that the refusal or failure was wilful, close the investigation of the case and proceed to draw up its report on the case or on the points to the best of its judgment and may in its discretion also direct that such sum as it may specify in the direction shall be recovered from the person by way of penalty for the refusal or failure, without prejudice to any penalty under the Indian Income-tax Act, 1922 (XI of 1922), and thereupon the sum so specified shall be recoverable as if the direction were given under sub-section (1) of section 46 of the Indian Income-tax Act, 1922 (XI of 1922), by the Income-tax Officer having jurisdiction to assess the person.

(6) If in any proceedings before an authorised official any person whose case or the points in whose case is or are being investigated refuses or fails to attend in person or to produce or cause to be produced accounts or documents or to answer questions or to prepare statements or to furnish information when called upon to do so, the authorised official shall report such refusal or failure to the Commission, and thereupon the provisions of sub-section (5) shall apply as if the refusal or failure took place in the course of the investigation by the Commission itself.

(7) The Commission and, subject to the direction of the Commission, any authorised official may make such enquiries in such manner as it or he may deem fit and obtain statements on oath from any person who is

considered likely to be in possession of any information or document relevant to the case or points in the case referred to the Commission or is in the opinion of the Commission likely to be reported by it to the Central Government for reference under the provisions of sub-section (4) of section 5 ; and for the purposes of these enquiries, the Commission and the authorised official shall have all the powers conferred on them by sub-sections (1), (2), (3) and (4).

(8) All materials gathered by the Commission or the authorised official and materials accompanying the reference under sub-section (1) of section 5 may be brought on record at such stage as the Commission may think fit.

(9) Subject to any rules made in this behalf under the Act any authorised official shall at all reasonable times have full and free access to all books, documents and other papers which in his opinion are relevant to the proceedings in any case or cases under this Act, and if specially authorised in this behalf by the Commission, to any buildings and places where he may have reason to believe that such books, documents or papers may be found ; and he shall have power to place identification marks on such books, documents or papers and to make extracts or copies therefrom or, if he considers it necessary, to take possession of or seize such books, documents or papers.

(10) The Commissioners and all authorised officials shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860), and the Commission shall be deemed to be a civil Court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898) reference in the said Chapter to the presiding officer of a Court being deemed to include the Chairman of the Commission.

5. *Substitution of new section for section 7, Act XXX of 1947.*—For section 7 of the said Act, the following shall be substituted, namely :—

“7. *Procedure of Commission.*—(1) The Commission shall, subject to the provisions of this Act, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding a vacancy in the number of the Commissioners ; and the powers of the Commission under sub-sections (1), (2), (3), (7) and (8) of section 6 and sub-sections (2), (4) and (6) of this section may be exercised by any member thereof authorised by the Commission in this behalf.

(2) In making an investigation under clause (b) of section 3, the Commission shall act in accordance with the principles of natural justice, shall follow as far as practicable the principles of the Indian Evidence Act, 1872 (I of 1872), and shall give the person whose case is being investigated a reasonable opportunity of rebutting any evidence adduced against him ; and the power of the Commission to compel production of documents shall not be subject to the limitation imposed by section 130 of the Indian Evidence Act, 1872 (I of 1872), and the Commission shall be deemed to be a court and its proceedings legal proceedings for the purpose of sections 5 and 6 of the Bankers' Books Evidence Act, 1891 (XVIII of 1891).

(3) Any person whose case is being investigated by the Commission may be represented by a pleader, a registered accountant or an employee duly authorised to act on his behalf, provided that no person shall be entitled to be present or to be represented in the course of an enquiry under sub-sections (3) and (7) of section 6.

(4) No person shall be entitled to inspect, call for, or obtain copies of, any documents, statement or papers or materials furnished to, obtained by or produced before the Commission or any authorised official in any proceedings under this Act; but the Commission, and after the Commission has ceased to exist such authority as the Central Government may in this behalf appoint, may, in its discretion, allow such inspection and furnish such copies to any person;

Provided that, for the purpose of enabling the person whose case or points in whose case is or are being investigated to rebut any evidence brought on the record against him, he shall, on application made in this behalf and on payment of such fees as may be prescribed by Rules made under this Act, be furnished with certified copies of documents, statements, papers and materials brought on the record by the Commission.

(5) Save in cases in which the Commission may exercise its powers under section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898),—

(a) no suit, prosecution or other legal proceeding shall be instituted against any person in any civil or criminal Court for any evidence given or produced by him in any proceedings before the Commission, and

(b) no evidence so given or produced shall be admissible in evidence against such person in any suit, prosecution or other proceeding before such Court,

except with the previous sanction of the Central Government.

(6) In any proceedings under this Act, the Commission may, in its discretion, admit in evidence and act upon any document notwithstanding that it is not duly stamped or registered.

(7) Nothing in sub-section (1) of section 54 of the Indian Income-tax Act, 1922 (XI of 1922) or of that section as applied to excess profits tax by section 21 of the Excess Profits Tax Act, 1940 (XV of 1940) shall apply to the disclosure of any of the particulars referred to therein in any proceeding before the Commission or in any report made by the Commission to the Central Government or in any report made to the Commission by an authorised official."

6. *Substitution of new section for section 8, Act XXX of 1947.*—For section 8 of the said Act, the following shall be substituted, namely:—

"8. *Power to direct re-opening of assessment proceedings.*—(1) Save as otherwise provided in this Act, the materials brought on record shall be considered by all the three members of the Commission sitting together and the report of the Commission shall be in accordance with the opinion of the majority.

(2) After considering the report, the Central Government shall by order in writing direct that such proceeding as it thinks fit under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940) or any other law, shall be taken against the person to whose case the report relates in respect of the income of any period commencing after the 31st day of December 1938; and, upon such a direction being given, such proceedings may be taken and completed under the appropriate law notwithstanding the restrictions contained in section 34 of the Indian Income-tax Act, 1922 (XI of 1922), or section 15 of the Excess Profits Tax Act, 1940 (XV of 1940), or any other law and notwithstanding any lapse of time or any decision to a different effect given in the case by any Income-tax authority or Income-tax Appellate Tribunal.

(3) On a direction being given under sub-section (2), and not other-

wise, a copy of the report of the Commission, so far as it relates to the case of the person concerned, shall be furnished to him.

(4) In all assessment or reassessment proceedings taken in pursuance of a direction under sub-section (2), the findings recorded by the Commission on the case or on the points referred to it shall, subject to the provisions of sub-sections (5) and (6), be final; but no proceedings taken in pursuance of such direction shall be a bar to the initiation of proceedings under section 34 of the Indian Income-tax Act, 1922 (XI of 1922).

(5) In respect of any order made in the course of proceedings taken in pursuance of a direction issued under sub-section (2), the provisions of sections 30, 31, 33 and 33A of the Indian Income-tax Act, 1922 (XI of 1922) and the corresponding provisions of the Excess Profits Tax Act, 1940 (XV of 1940) shall not apply so far as matters declared final by sub-section (4) are concerned; but the person concerned may, within 60 days of the date upon which he is served with a copy of such order, by application in the prescribed form accompanied by a fee of Rs. 100, require the appropriate Commissioner of Income-tax to refer to the High Court any question of law arising out of such order, and thereupon the provisions of sections 66 and 66A of the Indian Income-tax Act, 1922 (XI of 1922) shall as far as may be apply, with the modification that the reference shall be heard by a Bench of not less than three Judges of the High Court.

(6) Notwithstanding anything contained in this section, the Commission shall have power, either of its own motion or on the application of the person concerned or of the Central Government, to correct clerical or arithmetical mistakes in its report or errors therein arising from any accidental slip or omission; and after the Commission has ceased to exist, the Commissioner of Income-tax having jurisdiction over the case may exercise the powers conferred upon him by section 35 of the Indian Income-tax Act, 1922 (XI of 1922) as if the Commission's report was an order passed by him.

(7) Notwithstanding anything to the contrary contained in this Act or in any other law, for the time being in force, any evidence in the case admitted before the Commission or an authorised official shall be admissible in evidence in any proceedings directed to be taken under sub-section (2).

(8) Save as otherwise provided in this Act, the provisions of section 34 of the Indian Income-tax Act, 1922 (XI of 1922) shall apply to all statements, returns, accounts, documents, evidence, affidavits, depositions or record made, given, produced or obtained in connection with or in the course of the proceedings of the Commission or of any authorised official."

7. *Amendment of section 9, Act XXX of 1947.*—In section 9 of the said Act, for the words, figures and brackets, "any person authorised by it under sub-section (2) of section 6"; substitute "any authorised official."

The Indian Aircraft (Amendment) Act, 1948.

Received the assent of the Governor-General on the 12th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 12th April 1948.

Act No. XXIV of 1948.

An Act further to amend the Indian Aircraft Act, 1934.

WHEREAS it is expedient further to amend the Indian Aircraft Act, 1934 (XXI of 1934) for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Aircraft (Amendment) Act, 1948.

2. *Amendment of section 1 of Act XXII of 1934.*—For sub-section (2) of section 1 of the Indian Aircraft Act, 1934 (hereinafter called the said Act), the following shall be substituted :—

“(2) It extends to the whole of India, and applies also—

(a) to British subjects and servants of the Crown in any part of India ;
(b) to British subjects who are domiciled in any part of India wherever they may be ; and

(c) to, and to the persons on, aircraft registered in India wherever they may be.”

3. *Amendment of certain sections of Act XXII of 1934.*—In sections other than section 1 of the said Act, for the words “the Provinces” wherever they occur, the word “India” shall be substituted.

The Provincial Insolvency (Amendment) Act, 1948.

Received the assent of the Governor-General on the 12th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 12th April 1948.

Act No. XXV of 1948.

An Act further to amend the Provincial Insolvency Act, 1920.

WHEREAS it is expedient further to amend the Provincial Insolvency Act, 1920 (V of 1920), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Provincial Insolvency (Amendment) Act, 1948.

2. *Insertion of new section 28A in Act V of 1920.*—In the Provincial Insolvency Act, 1920, after section 28 the following section shall be inserted, namely :—

“28A. *Insolvent's property to comprise certain capacity.*—The property of the insolvent shall comprise and shall always be deemed to have comprised also the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the insolvent for his own benefit at the commencement of his insolvency or before his discharge :

Provided that nothing in this section shall affect any sale, mortgage or other transfer of the property of the insolvent by a Court or receiver or the Collector acting under section 60 made before the commencement of the Provincial Insolvency (Amendment) Act, 1948 which has been the subject of a final decision by a competent Court :

Provided further that the property of the insolvent shall not be deemed by reason of anything contained in this section to comprise his capacity referred to in this section in respect of any such sale, mortgage or other transfer of property, made in the Province of Madras after the 28th day of July, 1942, and before the commencement of the Provincial Insolvency (Amendment) Act, 1948.

The Junagadh Administration (Property) Act, 1948.

Received the assent of the Governor-General on the 13th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 13th April 1948.

Act No. XXVI of 1948.

An Act to provide for the vesting of certain property belonging to the

State of Junagadh in the Administrator appointed by the Central Government.

WHEREAS on or about the 9th day of November 1947 the administration of the State of Junagadh was handed over to the Central Government;

AND WHEREAS it is necessary to provide for the vesting of certain property belonging to the said State in the Administrator thereof, and for certain incidental matters;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Junagadh Administration (Property) Act, 1948.

2. *Definition.*—In this Act “Administrator” means the person appointed by the Central Government to be the Administrator of the State of Junagadh.

3. *Vesting and disposal of property and powers of Administrator.*—(1) Notwithstanding anything contained in any law for the time being in force, the property described in the Schedule, whether in the name of His Highness the Nawab of Junagadh, or the Dewan or the Private Secretary to His Highness the Nawab of Junagadh, or the Manager and Engineer-in-Chief, Junagadh State Railway, or the Chief Accounts Officer, Junagadh State, or any other person whatsoever or in the name of more than one of them, shall be deemed on and from the 9th day of November 1947 to have vested in the Administrator, and the Administrator shall, as from that date, hold and be entitled to and have the power to deal with and dispose of the said property as such Administrator.

(2) Without prejudice to the generality of the foregoing provisions, the Administrator shall have the power to—

(a) receive and give full and effectual discharge for or, in respect of the bank deposits, securities and shares described in the Schedule;

(b) sell, transfer or otherwise dispose of or deal with such property.

4. *Issue of duplicate securities.*—Notwithstanding anything contained in any law for the time being in force, the Reserve Bank of India shall issue to the Administrator duplicate securities in his name in lieu of the securities specified in Part II of the Schedule as if the securities so specified had been lost, and such duplicate securities shall have the same effect as if they had been issued under section 11 of the Public Debts (Central Government) Act, 1944 (XVIII of 1944):

5. *Transfers otherwise than by Administrator void.*—Any transfer of, or dealing with, any of the property described in the Schedule after the 8th day of November 1947, otherwise than by the Administrator, shall be, and shall always be deemed to have been, void and of no effect.

6. *Bar of jurisdiction.*—(1) No Court shall have jurisdiction to entertain any suit or other proceeding in respect of any of the property described in the Schedule or to enforce any liability in respect thereof, otherwise than at the instance of the Administrator.

(2) Any claim in respect of such property by any person other than the Administrator may be submitted to the Central Government, whose decision in the matter shall be final.

7. *Protection of action taken under this Act.*—No suit, prosecution or other legal proceeding shall lie against the Central Government, the Reserve Bank of India, any bank or company named in Parts I and III of the Schedule or any person for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act.

8. *Power of the Central Government to add to the Schedule.*—The Central Government may from time to time add to the items of property includ-

ed in the schedule by notification in the official Gazette and on such notification such property shall be deemed to have been always included in the schedule.

9. *Repeal of Ordinance No. XXX of 1947.*—(1) The Junagadh Administration (Property) Ordinance, 1947, is hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under the said ordinance shall, so far as it is not inconsistent with this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act had commenced on the 24th Day of December, 1947.

THE SCHEDULE.

PART I.—BANK DEPOSITS.

Serial No.	Name of Bank.	In whose name standing
1.	The Imperial Bank of India, Bombay ...	Dewan, Junagadh State.
2.	The Bank of India, Limited, Bombay ...	Dewan, Junagadh State.
3.	The National Bank of India, Limited, Bombay.	Private Secretary to His Highness the Nawab of Junagadh
4.	The Bank of India, Limited, Bombay ...	Manager and Engineer-in-Chief, Junagadh State Railway, on behalf of the Railway.
5.	The Bank of India, Limited, Bombay ...	Chief Accounts Officer, Junagadh State.

PART II.—GOVERNMENT SECURITIES.

Serial No.	Kind of security, form and denomination.	Amount
		Rs.
1	4% Government Loan 1960/70 (Special Form) in the name of His Highness the Nawab of Junagadh, Nos. BY 042362 to BY 042386 (25 x 50,000); Nos. BY 042449 and BY 042459 (2 x 50,000); Nos. BY 055398 to BY 055400; Nos. BY 066210 to BY 066214 (8 x 1,00,000); Nos. BY 067031 to BY 067036 (6 x 25,000)	23,01,000
2	4½% Government Loan 1955/60 (Special Form) in the name of His Highness the Nawab of Junagadh Nos. BY 012641 and BY 012642 (2 x 1,00,000)	2,00,000
3	4½% Government Loan 1955/60 (Ordinary Form) in the name of His Highness Sir Mahabat Khan, G. C. I.E., K.C.S.I., Nawab of Junagadh No. BY 011838 (1 x 10,000), No. BY 011839 (1 x 25,000)	35,000
4	3% Government Loan 1963/65 (Special Form) in the name of His Highness the Nawab of Junagadh No. BY 026364 (1 x 15,700); Nos. BY 026365, to BY 026376, Nos. BY 036890 to BY 036904 (27 x 1,00,000).	27,15,700
5	3½% Government Loan 1947/50 (Special Form) in the name of His Highness the Nawab of Junagadh,	

PART II.—GOVERNMENT SECURITIES—*Contd.*

Serial No.	Kind of securities, form and denomination.	Amount
	Nos. BY 021217 to BY 021220 (4 x 1,00,000) ...	4,00,000
6	3% Government Loan 1951/54 (Special Form) in the name of His Highness the Nawab of Junagadh, Nos. BY 021377 to BY 021424 (48 x 25,000) ...	12,00,000
7	3½% Government Loan 1954/59 (Special Form) in the name of His Highness the Nawab of Junagadh Nos. BY 003186 to BY 003209 (24 x 25,000) ...	6,00,000
8	3% Funding Loan 1966/68 (Special Form) in the name of His Highness the Nawab of Junagadh, Nos. BY 018923 to BY 018927 (5 x 5,00,000) ...	25,00,000
9	3% Victory Loan 1957 (Special Form) in the name of His Highness the Nawab of Junagadh, Nos. BY 033754 to BY 033756 (3 x 5,00,000) ...	15,00,000
10	3% Conversion Loan 1946 (Special Form) in the name of His Highness the Nawab of Junagadh, Nos. BY 068173 to BY 068177 (5 x 1,00,000) repayable on or after 16th September 1986 ...	5,00,000
11	3% Government Loan 1963/65 (Ordinary Form) in the name of Colonel His Highness Sir Mahabatkhanji, G. C. I. E., K. C. S. I., Nawab Sahib of Junagadh, Nos. BY 053649, and BY 053650, Nos. BY 052313 to BY 052320, Nos. BY 054411 to BY 054414, Nos. CA 031142 and CA 031143, Nos. BY 050506 to BY 050527 (38 x 25,000) ...	9,50,000
TOTAL		1,29,00,700

PART III.—SHARES OF JOINT STOCK COMPANIES.

Serial No.	Name of Joint Stock Company.	Shares
1	The Industrial Investment Trust, Limited	1000 shares in the name of His Highness Sir Mahabat Khan, G. C. I. E., Nos. 29652 to 30651.
2	The Central Provinces Railway Company, Limited	1000 shares in the name of His Highness Nawab Sahib Mahabat Khan Rasul Khan, Nos. 47767 to 48766.

The Control of Shipping (Amendment) Act, 1948.

Received the assent of the Governor-General on the 13th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV dated the 13th April 1948.

Act No. XXVII of 1948.*An Act to amend the Control of Shipping Act, 1947.*

WHEREAS it is expedient to amend the Control of Shipping Act, 1947 (XXVI of 1947), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Control of Shipping (Amendment) Act, 1948.

2. *Substitution of "India" for "the Provinces" in Act XXVI of 1947.*—In the Control of Shipping Act, 1947 (hereinafter referred to as "the said Act"), except in section 1, for the words "the Provinces", wherever they occur, the word "India" shall be substituted.

3. *Amendment of section 1, Act XXVI of 1947.*—In section 1 of the said Act,—

(a) in sub-section (2), for the words "all the Provinces of India" the words "the whole of India" shall be substituted, and for the words "in the Provinces" the words "in India" shall be substituted ; and

(b) in sub-section (3), for the figures "1948" the figures "1950" shall be substituted.

4. *Amendment of section 2, Act XXVI of 1947.*—In section 2 of the said Act, clauses (a), (b), (c), (d) and (e) shall be re-lettered (b), (c), (d), (e) and (f) respectively, and before clause (b), as so re-lettered, the following clause shall be inserted, namely :—

"(a) "Coasting trade of India" means the carriage by water of passengers or goods from any port or place in India to any other port or place in the continent of India ;"

5. *Insertion of new section 3A in Act XXVI of 1947.*—After section 3 of the said Act, the following new section shall be inserted, namely :—

"3A. *Licences for Coasting trade of India.*—(1) No ship shall engage in the coasting trade of India except under a valid licence granted by a Shipping Authority under this section.

(2) A licence granted under this section may be either a general licence or a specified voyage licence or a licence for a specific period and shall be subject to such conditions as may be specified by the Shipping Authority granting the licence.

(3) The Shipping Authority may in its discretion, at any time, revoke, cancel or modify a licence granted under this section."

6. *Amendment of section 4, Act XXVI of 1947.*—In section 4 of the said Act after the word "India" the words "or to a ship engaged in the coasting trade of India" shall be inserted.

7. *Amendment of section 7, Act XXVI of 1947.*—In clause (i) of section 7, the following words shall be added at the end, namely :—

"or has carried during any specified period".

The Ajmer-Merwara Rent Control (Amendment) Act, 1948.

Received the assent of the Governor-General on the 13th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 13th April 1948.

Act No. XXVIII of 1948.***An Act further to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947.***

WHEREAS it is expedient further to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1948.

2. *Amendment of section 7A, Act XIX of 1947.*—In section 7A of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (hereinafter referred to as the said Act), for the words “this section”, occurring at the end, the words “this Act, shall be substituted, and shall be deemed always to have been substituted.

3. *Amendment of the Fourth Schedule, Act XIX of 1947.*—In clause (d) of paragraph 10 of the Fourth Schedule to the said Act, for the words “coming into operation of this paragraph” the words “coming into force of this Act” shall be substituted, and shall be deemed always to have been substituted.

The Atomic Energy Act, 1948.

Received the assent of the Governor-General on the 15th April, 1948 and is published in the *Gazette of India*, Extraordinary, dated the 15th April 1948.

Act No. XXIX of 1948.***An Act to provide for the development and control of atomic energy and for purposes connected therewith.***

WHEREAS it is expedient to provide for the development and control of atomic energy and for purposes connected therewith;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This may be called the Atomic Energy Act, 1948.

(2) It extends to all the Provinces of India.

2. *Declaration as to expediency of Central Government's control.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of—

(a) any industry connected with the production or use of atomic energy, and

(b) any mineral which is or may be used for the production or use of atomic energy or research into matters connected therewith.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “atomic energy” means the energy released from atomic nuclei as a result of any process, including the fission process, but does not include energy released in any process of natural transmutation or radio-active decay which is not accelerated or influenced by external means;

(b) “minerals” includes all substances obtained or obtainable from the soil by underground or surface working;

(c) "plant" includes any machinery, equipment or appliance, whether affixed to land or not ;

(d) "prescribed substance" means uranium, thorium, plutonium, neptunium or beryllium or any of their respective compounds or any other substance which the Central Government may, by notification in the official Gazette, prescribe, being a substance which in its opinion is or may be used for the production or use of atomic energy or research into matters connected therewith.

4. *General powers of the Central Government.*—The Central Government shall have power—

(a) to produce, use and dispose of atomic energy and carry out research into any matters connected therewith ;

(b) to manufacture or otherwise produce, buy or otherwise acquire, store and transport any articles which in its opinion are, or are likely to be, required for or in connection with the production or use of atomic energy or such research as aforesaid, and to dispose of any articles manufactured, produced, bought or acquired by it ; and

(c) to do all such things (including the erection of buildings and the execution of works and the working of minerals) as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

5. *Power to obtain information of materials, plant and processes*—(1) The Central Government may, by notice in writing served upon any person, require him to make such periodical and other returns, at such times and containing such particulars and accompanied by such plans, drawings and other documents as may be specified in the notice—

(a) of any prescribed substance, specified in the notice, in his possession or under his control ;

(b) of any minerals so specified in his possession or under his control or present in or on land owned or occupied by him, being minerals from which, in the opinion of the Central Government, any of the prescribed substances can be obtained ;

(c) of any plant in his possession or under his control designed or adapted for the production or use of atomic energy or research into matters connected therewith ;

(d) of any contract entered into by him or any licence granted by or to him relating to the production or use of atomic energy or research into matters connected therewith ;

(e) of any other information in his possession relating to any work carried out by him, or on his behalf or under his direction, in connection with the production or use of atomic energy or research into matters connected therewith ;

(2) If any person—

(a) fails to comply with any notice served on him under this section, or

(b) knowingly makes any untrue statement in any return made in pursuance of any such notice, he shall be guilty of an offence under this Act.

6. *Power of entry and inspection.*—(1) Any person authorised by the Central Government may, on producing, if so required, a duly authenticated document showing his authority, enter any premises where he has reasonable grounds for believing that work is being carried out for the purpose of or in connection with the production or use of atomic energy or res-

search into matters connected therewith, or that any of the prescribed substances, or any minerals from which any such substance can be obtained or any such plant as is mentioned in clause (c) of sub-section (1) of the last foregoing section are situate, and may inspect the premises and any articles found therein.

(2) The person carrying out the inspection may make copies of, or extracts from, any drawing, plan or other document found in the premises and, for the purpose of making such copies or extracts, may remove any such drawing, plan or other document after giving a duly signed receipt for the same and retain possession thereof for a period not exceeding seven days.

(3) If any person wilfully obstructs any person exercising powers under this section, he shall be guilty of an offence under this Act.

7. *Power to do work for purpose of discovering minerals.*—(1) The Central Government may, subject to the provisions of this section, do on, over or below the surface of any land such work as it considers necessary for the purpose of discovering whether there is present in or on the land, either in a natural state or in a deposit of waste material obtained from any underground or surface working, any mineral from which in its opinion any of the prescribed substances can be obtained, and the extent to which such mineral is so present.

(2) Before any powers are exercised under sub-section (1) in relation to any land, the Central Government shall serve on every owner, lessee and occupier of the land a notice in writing specifying the nature of the work proposed to be done and the extent of the land affected, and the time, not being less than twenty-eight days, within which and the manner in which objections can be made thereto, and no such power shall be exercised otherwise than in pursuance of the notice or before the expiration of the time specified therein for making objections.

(3) The Central Government may, after giving the person making the objection an opportunity of appearing before and being heard by a person appointed by the Central Government for the purpose and after considering any such objection and the report of the person so appointed, make such orders as it may deem proper but not so as to increase the extent of the land affected.

(4) Compensation shall be determined and paid in accordance with section 16 of this Act in respect of any diminution in the value of any land or property situate thereon resulting from the exercise of powers under this section.

(5) If any person wilfully obstructs or interferes with the exercise of powers under this section, he shall be guilty of an offence under this Act.

8. *Compulsory acquisition of prescribed substances, stock of minerals and plant.*—(1) The Central Government may, subject to such rules as may be made in this behalf, compulsorily acquire—

(a) any prescribed substance;

(b) any minerals, being minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained;

(c) any plant not affixed to land which is designed or adapted for the production or use of atomic energy or research into matters connected therewith.

(2) Compensation in respect of the acquisition of any articles under this section shall be paid in accordance with the provisions of section 16 of this Act.

9. *Compulsory acquisition of certain other rights.*—(1) The Central Government may serve on any person who is a party to a contract relating to the production or use of atomic energy or research into matters connected therewith, not being a contract for the rendering of personal services, a notice in writing stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Central Government, and thereupon, subject to any withdrawal of the notice under the following provisions of this section, the contract shall, as regards any rights exercisable, or liabilities incurred, on or after the said date, have effect as if the Central Government were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Central Government.

(2) A notice served under sub-section (1) shall contain a statement to the effect that an objection may be made thereto within such time and in such manner as may be specified, and if any such objection is duly made and not withdrawn, the Central Government shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Central Government for the purpose.

(3) After considering any such objection and the report of the person appointed by it under sub-section (2), the Central Government may make such orders as it may deem proper.

(4) Where the rights and liabilities of a party to a contract are transferred to the Central Government under this section, there shall be paid to that party such compensation in respect of any loss suffered by that party as may be agreed between him and the Central Government, and in default of such agreement, as may be determined by arbitration.

10. *Control of production and use of atomic energy.*—(1) The Central Government may, by order published in the official Gazette, prohibit except under a licence granted by it,—

(a) the working of any minerals specified in the order, being minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained ;

(b) the acquisition, production, treatment, possession, use, disposal, export or import—

(i) of any of the prescribed substances ; or

(ii) of any minerals specified in the order, being minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained ; or

(iii) of any plant designed or adapted or manufactured for the production or use of atomic energy or for research into matters connected therewith ;

and any such order may contain such incidental and supplementary provisions, including provisions for seizure, retention and disposal of any article in respect of which there are reasonable grounds for suspecting that a contravention of the order has been committed, as the Central Government considers necessary.

(2) Any person who contravenes or fails to comply with an order made under this section or any conditions subject to which a licence is granted under this section shall be guilty of an offence under this Act.

11. *Restriction on disclosure of information relating to plant.*—(1) Subject to the provisions of this section, any person who, without the consent of the Central Government, communicates to any other person not being an

authorised person, or obtains or attempts to obtain, any document, drawing, photograph, plan, model or other information whatsoever which to his knowledge describes, represents or illustrates—

(i) an existing or proposed plant used or proposed to be used for the purpose of producing or using atomic energy, or

(ii) the purpose or method of operation of any such existing or proposed plant, or

(iii) any process operated or proposed to be operated in any such existing or proposed plant;

shall be guilty of an offence under this Act:

Provided that it shall not be such an offence to communicate information with respect to any plant of a type in use for purposes other than the production or use of atomic energy, unless the information discloses that plant of that type is used or proposed to be used for the production or use of atomic energy or research into any matters connected therewith.

Explanation.—In this sub-section “authorised person” means in relation to information on any subject to which this sub-section applies, a person to whom, by virtue of a general authority granted by the Central Government, information on that subject may be communicated.

(2) The Central Government may, by order, grant exemption from this section in such classes of cases and to such extent and subject to such conditions, as may be specified in the order.

(3) Where any information has been made available to the general public otherwise than in contravention of this section, any subsequent communication of that information shall not constitute an offence under this Act.

12. Special provisions as to inventions.—Where an application has been made to the Controller of Patents and Designs (hereinafter in this section referred to as the Controller) for the grant of a patent and it appears to the Controller that the invention which is the subject matter of the application relates to the production or use of atomic energy or research into matters connected therewith, he shall serve a notice in writing on the Central Government to that effect, and may, notwithstanding anything in any law, omit or delay the doing of anything which he would otherwise be required to do in relation to the application, and give directions for prohibiting or restricting the publication of information with respect to the subject matter of the application, or the communication of such information to particular persons or classes of persons.

(2) Upon receipt of notice under sub-section (1) the Central Government may make such orders as it may deem proper.

(3) Any person who contravenes any direction given by the Controller or any order made by the Central Government shall be guilty of an offence under this Act.

13. Delegation of powers.—The Central Government may by order direct that any power conferred on it by this Act shall be exercised or discharged by such officer or officers in such circumstances and under such conditions as may be specified in the order.

14. Disclosure of information obtained under Act.—Any person who, without the authority of the Central Government, discloses any information obtained in the exercise of powers under this Act, shall be guilty of an offence under this Act.

15. Offences and penalties.—(1) Any person guilty of an offence under this Act shall be punishable with imprisonment for a term which may ex-

tend to three months or with fine which may extend to five hundred rupees or with both.

(2) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(3) Proceedings in respect of an offence under section 11 shall not be instituted except with the consent of the Advocate-General of India.

16. Principles relating to payment of compensation.—(1) Where by reason of the exercise of any powers under this Act, any compensation is payable, the amount of such compensation shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person having expert knowledge as to the nature of the right affected who shall determine the amount of compensation payable.

(2) In making his award the arbitrator appointed under sub-section (1) shall have regard—

(a) in the case of any compensation payable under section 7 of this Act,—

(i) to the nature of the work done,

(ii) the manner, extent and duration of the exercise of any powers under that section,

(iii) the diminution in the rent at which the land and the property situated thereon might reasonably be expected to let for any period or in the market value of the land and property on the date when the exercise of powers comes to an end, and

(iv) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894) in so far as such provisions can be made applicable to the exercise of powers under section 7 of this Act; and

(b) in the case of any compensation payable under section 8 of this Act, to the price which the owner might reasonably have been expected to obtain on a sale of the article effected by him immediately prior to the date of the acquisition.

(3) An appeal shall lie to the High Court against an award of the arbitrator except in cases where the amount claimed thereof does not exceed an amount prescribed in this behalf by the Central Government.

(4) The Central Government may make rules prescribing the procedure to be followed in arbitrations under this Act and the principles to be followed in the apportionment of the costs of proceedings before the arbitrator and on appeal.

(5) Save as provided in this Act nothing in any law for the time being in force relating to arbitration shall apply to arbitration under this Act.

The Indian Lac Cess (Amendment) Act, 1948.

Received the assent of the Governor-General on the 15th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 15th April 1948.

Act No. XXX of 1948.

An Act further to amend the Indian Lac Cess Act, 1930.

WHEREAS it is expedient further to amend the Indian Lac Cess Act, 1930 (XXIV of 1930), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Lac Cess (Amendment) Act, 1948.

2. *Amendment of section 3, Act XXIV of 1930.*—In section 3 of the Indian Lac Cess Act, 1930,—

(a) for the words “seven annas” the words “fourteen annas” shall be substituted ;

(b) for the words “five annas” the words “ten annas” shall be substituted

The National Cadet Corps Act, 1948.

Received the assent of the Governor-General on the 16th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 16th April 1948.

Act No. XXXI of 1948.

An Act to provide for the constitution of a National Cadet Corps.

WHEREAS it is expedient to provide for the constitution of a National Cadet Corps ;

It is hereby enacted as follows :—

1. *Short title, extent and application.*—(1) This Act may be called the National Cadet Corps Act, 1948.

(2) It extends to the whole of India and applies to all persons enrolled or appointed under this Act, wherever they may be.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

“corps” means the National Cadet Corps constituted under this Act ;

“enrolled” means enrolled in the Corps under this Act ;

“prescribed” means prescribed by rules made under this Act ;

“school” includes any institution recognised in this behalf by the Central Government or the Provincial Government ;

“university” means any university established by law in India and includes colleges affiliated to universities, intermediate colleges and such technical institutions of collegiate status, as are recognised in this behalf by the Central Government or the Provincial Government.

3. *Constitution of the National Cadet Corps.*—There shall be raised and maintained in the manner hereinafter provided a Corps to be designated the National Cadet Corps :

Provided that the Central Government may establish all or any of the units of the Corps as and when necessary.

4. *Constitution and disbandment of units.*—The Central Government may constitute in any Province or acceding State one or more units of the Corps, members of which shall be recruited from amongst the students of any university or school, and may disband or reconstitute any units so constituted.

5. *Division of the Corps into Divisions.*—There shall be three Divisions of the Corps, namely :—

(i) the Senior Division, recruitment to which shall be from amongst the students of the male sex of any university ;

(ii) the Junior Division, recruitment to which shall be from amongst the students of the male sex of any school ; and

(iii) the Girls Division, recruitment to which shall be from amongst the students of the female sex of any university or school.

6. *Enrolment.*—(1) Any student of the male sex of any university may offer himself for enrolment as a cadet in the Senior Division, and any student of the male sex of any school may offer himself for enrolment as a cadet in the Junior Division if he is of the prescribed age or over.

(2) Any student of the female sex of any university or school may offer herself for enrolment as a cadet in the Girls Division :

Provided that in the latter case she is of the prescribed age or over.

7. *Central Government may raise other units.*—Notwithstanding anything contained in this Act, the Central Government may, by notification, provide for the constitution of any other units of the Corps in any place and prescribe the persons or class of persons who may be eligible for enrolment therein.

8. *Discharge.*—Every person enrolled under this Act shall be entitled to receive his or her discharge from the Corps on the expiration of the period for which he or she was enrolled or on his or her ceasing to be borne on the roll of the university or school to which he or she may belong :

Provided that any person enrolled may be discharged at any time by such authority and subject to such conditions as may be prescribed.

9. *Appointment of officers.*—The Central Government may provide for the appointment of officers in or for any unit of the Corps either from amongst members of the staff of any university or school or otherwise and may prescribe the duties, powers and functions of such officers.

10. *Duties of persons subject to this Act.*—No person subject to this Act shall by virtue of being a member of the Corps be liable for active military service, but subject thereto any such person shall be liable to perform such duties and discharge such obligations as may be prescribed.

11. *Punishment for offences under this Act.*—Any person enrolled under this Act may be punished for the contravention of any rule made under this Act with fine which may extend to fifty rupees to be recovered in such manner and by such authority as may be prescribed.

12. *Power to appoint Advisory Committees.*—(1) The Central Government may for the purpose of advising it on all matters of policy connected with the constitution and administration of the Corps appoint a Central Advisory Committee consisting of the following persons, namely,—

(a) the Minister for Defence, who shall be the Chairman of the Committee ;

(b) the Secretary to the Government of India, Ministry of Defence, *ex-officio* ;

(c) the Secretary to the Government of India, Ministry of Education, *ex-officio* ;

(d) the Financial Adviser, Defence, *ex-officio* ;

(e) the Chief of the Army Staff and Commander-in-Chief, Indian Army, *ex-officio* ;

(f) the Chief of the Air Staff and Air Marshal Commanding, Royal Indian Air Force, *ex-officio* ;

(g) the Chief of the Naval Staff and Flag Officer Commanding, Royal Indian Navy, *ex-officio* ;

(h) five non-official members to be nominated by the Central Government; and

(i) two members elected by the Central Legislature.

(2) The Central Government may also appoint, for the same purpose as is specified in sub-section (1), such Provincial or State Advisory Committees as it may consider desirable from time to time and may prescribe their duties and functions.

13. Powers to make rules.—(1) The Central Government may make rules to carry out the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) prescribe the conditions subject to which universities or schools shall be allowed to raise units under this Act;

(b) prescribe the persons or class of persons who may be eligible for enrolment under section 7;

(c) prescribe the manner in which, the period for which and the conditions subject to which any person or class of persons may be enrolled under this Act;

(d) provide for the medical examination of persons offering themselves for enrolment under this Act;

(e) prescribe preliminary and periodical military training for any person or class of persons subject to this Act;

(f) prescribe the military or other obligations to which members of the Corps shall be liable when undergoing military training and provide generally for the maintenance of discipline amongst members of the Corps;

(g) prescribe the duties, powers and functions of officers appointed under this Act;

(h) prescribe the allowances or other remuneration payable to persons subject to this Act;

(i) provide for the removal or discharge of any person subject to this Act;

(j) prescribe the offences for which any person subject to this Act may be tried and provide for the trial thereof;

(k) prescribe the manner in which fines levied under this Act may be recovered;

(l) prescribe the duties, powers and functions of Central, Provincial or State Advisory Committees; and

(m) provide for any other matter which under this Act is to be or may be prescribed.

The Road Transport Corporations Act, 1948.

Received the assent of the Governor-General on the 16th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 16th April 1948

Act No. XXXII of 1948

An Act to provide for the incorporation of Road Transport Corporations and for purposes connected therewith.

WHEREAS for the promotion of a co-ordinated system of road transport in India, it is expedient to provide for the incorporation of Road Transport Corporations in which the Central and Provincial Governments shall be properly represented, and to make certain provisions incidental thereto;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Road Transport Corporations Act, 1948.

(2) It extends to all the Provinces, but shall not come into force in any Province unless the Central Government, by notification, so directs.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

“Corporation” means the Road Transport Corporation appointed by the Provincial Government in pursuance of this Act.

3. *Power of Provincial Governments to appoint Corporations.*—Notwithstanding anything contained in the Motor Vehicles Act, 1939, the Indian Companies Act, 1913, or any other law a Provincial Government, having regard to

(a) the advantages offered to the public, trade and industry by the development of road transport;

(b) the desirability of co-ordinating any form of road transport with any other form of transport;

(c) the desirability of extending and improving the facilities for road transport in any area in such manner as to provide most efficiently and as cheaply as possible for the needs thereof and of preventing uneconomic competition among any forms of road transport;

may, appoint, by notification issued in this behalf, a Road Transport Corporation for the whole or any part of the Province.

(2). In such Corporation—

(a) provision shall be made and continue to be made by or under the relevant provincial law for the reservation and allotment to the Central Government, as represented by its Railways, of such percentage of the share capital of the Corporation, if any, as may be agreed to by the Central and the Provincial Governments ;

(b) provision shall be made and continue to be made for adequate representation of the Central Government and of the Provincial Government concerned on the Corporation ; and

(c) provision shall be made for the payment of due compensation in accordance with rules made under section 7 to the owners of any road transport services whose services are taken over by the Corporation :

Provided that where no agreement is arrived at or a dispute arises in respect of any matter referred to in this sub-section between the Central Government and a Provincial Government such dispute will be referred to an arbitral tribunal consisting of one nominee of the Central Government, one nominee of the Provincial Government and one nominee of the Chief Justice of the Federal Court who shall be Chairman of the tribunal and the findings of the tribunal shall be final and binding.

4. *Incorporation and dissolution of Corporation.*—Any Corporation appointed by a Provincial Government in pursuance of this Act shall be a body corporate having perpetual succession and a common seal and may sue and be sued by the name given to it by or under the relevant Provincial law.

5. *Composition of Corporation.*—Subject to the other provisions of this Act any Corporation appointed by a Provincial Government shall consist of such number of persons as the Provincial Government may think fit to appoint and shall have such rights and privileges and shall exercise such duties and functions as may be specified by or under any Provincial law.

6. *Winding up of Corporation.*—Nothing in the Indian Companies Act, 1913 shall apply to the Corporation, and no Corporation shall be wound up save by order of the Provincial Government, and save in such manner as the Provincial Government may direct :

Provided that no order for winding up shall be passed by any Provin-

cial Government under this section unless it has first obtained the approval of the Central Government thereto.

7. *Power to make rules.*—The Central Government may make rules to carry out the purposes of clause (c) of sub-section (2) of section 3 of this Act.

The Calcutta Port (Pilotage) Act, 1948.

Received the assent of the Governor-General on the 16th April 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 16th April 1948.

Act No. XXXIII of 1948.

An Act to provide for the transfer of control over pilotage on the River Hooghly to the Commissioners for the Port of Calcutta.

WHEREAS it is expedient to provide for the transfer of control over pilotage on the River Hooghly to the Commissioners for the Port of Calcutta and for other matters incidental thereto, and to make certain consequential amendments in the Calcutta Pilots Act XII of 1859 ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Calcutta Port (Pilotage) Act, 1948.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “appointed day” means the date on which this Act comes into force ;

(b) “Commissioners” means the Commissioners for the Port of Calcutta incorporated under the Calcutta Port Act, 1890 (Bengal Act III of 1890) ;

(c) “Hooghly area” means the part of the Hooghly River extending from the Port of Calcutta to the sea to which section 31 of the Indian Ports Act, 1908 (XV of 1908) has been extended.

3. *Commissioners’ duty to maintain pilots.*—As from the appointed day it shall be the duty of the Commissioners to maintain pilots for the safe navigation of vessels in the Hooghly area and the Commissioners shall be bound to maintain a sufficient number of pilots for the purpose as may be prescribed by the Central Government from time to time.

4. *Appointment of pilots.*—No person shall be appointed to be a pilot by the Commissioners who is not for the time being authorised by the Central Government under the provisions of the Indian Ports Act, 1908, to pilot vessels.

5. *Rules regarding pilots.*—(1) The Commissioners may from time to time make rules—

(a) for fixing and regulating the salaries, wages and allowances for pilotage to be received by the pilots, and

(b) for regulating the behaviour and conduct of pilots, and may enforce the observance of such rules by the imposition of pecuniary penalties not exceeding two hundred rupees for every breach thereof or by suspension or deprivation of appointment or otherwise, as to them may appear expedient ;

Provided that any such order made by the Commissioners shall, as respects any officer whose salary amounts to or exceeds one thousand rupees, be subject to the previous sanction of the Central Government.

(2) No such rules shall take effect until they are approved by the Central Government and published in the official Gazette.

6. *Levy of pilotage fees*—As from the appointed day the Commissioners shall be entitled to levy fees for the pilotage of vessels in the Hooghly area at rates fixed under the Indian Ports Act, 1908 (XV of 1908).

7. *Pilotage account and items to be credited to it*.—(1) In the accounts of the Commissioners a pilotage account shall be kept separate from the general account.

(2) All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilots service shall be credited to the pilotage account and shall be held by the Commissioners in trust.

8. *Expenditure in pilotage account*.—All sums credited to the pilotage account may be applied in such proportions as the Commissioners may from time to time direct to the following purposes, namely :—

(a) the purchase and maintenance in repair of such vessels and the supply of such material, stores or other things as the Commissioners may deem necessary to purchase, maintain or supply for the efficiency of the pilot service ;

(b) the payment of the salaries, wages and allowances of pilots or other officers and servants of the Commissioners employed in the pilot service ;

(c) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service and the contributions to the provident fund or bonuses, if any, duly authorised to be made in their behalf ;

(d) the payment of pensions, gratuities and compassionate allowances granted by the Commissioners to pilots and other officers and servants engaged in the pilot service who are injured in the execution of their duty and to the surviving relatives of pilots, officers and servants so engaged who may die in the service of the Commissioners.

(e) the provision of educational, recreational and other amenities for pilots and other officers and servants of the Commissioner employed in pilot service.

9. *Power to transfer moneys from the general account to pilotage account and vice-versa*.—The Commissioners shall have the power, with the previous sanction of the Central Government, to apply the moneys credited to the general account towards meeting deficits, if any, in the pilotage account and to transfer the whole or part of the surplus funds in the pilotage account to the general account.

10. *Application of certain provisions of Bengal Act III of 1890*.—Sections 18, 19, 24B, 29 to 34 inclusive, 47 to 54 inclusive, 55, 57, 58 and 69 to 80 inclusive of the Calcutta Port Act, 1890, are hereby incorporated in this Act subject to the following modifications, namely :—

(a) that the references in the said sections to the Calcutta Port Act, 1890, shall be taken as references to this Act ;

(b) that in clause (b) of section 19, for the words "the tolls, dues, rates, rents and charges" the words "pilotage fees" shall be substituted and the words "sum of five and-a-half lakhs set apart by the Commissioners as a reserve fund prior to the passing of this Act, and the further" shall be omitted ;

(c) that the proviso to sub-section (2) of section 30 shall be omitted ;

(d) that the proviso to sub-section (1) of section 31 shall be omitted ;

(e) that in sub-section (1) of section 34 for the words "the Deputy Chairman, Secretary, Engineer, Traffic Manager or Chief Accountant of the

Commissioners, or to any other" the word "any" shall be substituted; (f) that sub-section (2) of section 34 shall be omitted.

11. *Amendment of the Calcutta Pilots Act XII of 1859.*—The following amendments in the Calcutta Pilots Act No. XII of 1859 shall be made, namely :—

(a) in the preamble and in section 2, for the words "the Pilot Service of Government at the Presidency of Fort William in Bengal" the words "the Hooghly Pilot Service of the Commissioners for the Port of Calcutta" shall be substituted;

(b) in section 21, for the words "the marine authorities of the Government" the words "the Commissioners for the Port of Calcutta" shall be substituted and the words "provided that no order for suspension, reduction or deprivation of appointment shall be made without the previous sanction of the Central Government" shall be added at the end;

(c) in section 23, for the words "all persons employed in the Pilot-service at the said Presidency and borne on the rolls of the Government establishment" the words "all persons employed in the Hooghly Pilot Service and borne on the rolls of the Commissioners for the Port of Calcutta" shall be substituted.

The Gandhi National Memorial Fund Donations (Companies) Act, 1948.

Received the assent of the Governor-General on the 31st August 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 31st August 1948.

Act No. XXXV of 1948.

An Act to enable companies to make donations to the Gandhi National Memorial Fund.

WHEREAS it is expedient to make provision for enabling companies to make donations to the Gandhi National Memorial Fund;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Gandhi National Memorial Fund Donations (Companies) Act, 1948.

(2) It extends to all the Provinces of India.

2. *Power of companies to make donations to the Fund.*—Any company, as defined in clause (2) of sub-section (1) of section 2 of the Indian Companies Act, 1913 (VII of 1913), may, notwithstanding anything contained in that Act, and notwithstanding that the Memorandum of Association or the Articles of Association of the Company do not enable it so to do, by special resolution authorise the making of a donation from the Company's assets to the Fund known as the Gandhi National Memorial Fund and administered by the President of the Indian National Congress.

The Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948.

Received the assent of the Governor-General on the 31st August 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 31st August, 1948.

Act No. XXXVI of 1948.

An Act to amend the constitutions of the Port Trusts of the major ports of Bombay, Calcutta and Madras.

WHEREAS it is expedient to amend the constitutions of the Port Trusts relating to the administration of the major ports of Bombay, Calcutta and Madras;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Amendment of certain enactments.*—The enactments mentioned in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. *Transition from existing constitution to new constitution.*—The appointments and elections to be made or held under any of the enactments mentioned in the Schedule, as amended hereby, may be made or held at any time after the passing of this Act and before this Act comes into force, but the Trustees or Commissioners, as the case may be, so appointed and elected shall not assume office until this Act comes into force, and on the coming into force of this Act the term of office of the Trustees or Commissioners, as the case may be, then holding office, shall expire.

SCHEDULE

(See section 2)

Year 1	Number 2	Short title 3	Amendments 4
1879	Bom. VI	The Bombay Port Trust Act, 1879.	For section 5, the following section shall be substituted, namely:— “5. <i>Constitution of the Board.</i>—(1) The Board shall consist of twenty-five members, that is to say, of fourteen elective Trustees, ten nominee Trustees and a Chairman. (2) The ten nominee Trustees shall be the following :— (a) two representatives of the Defence Services chosen by the Central Government, one of whom shall be a representative of the Royal Indian Navy in Bombay ; (b) two representatives of labour chosen by the Central Government after consultation with the registered trade unions, if any, composed of persons employed in the port ; (c) one representative of the Mercantile Marine Department, Bombay, chosen by the Central Government ; (d) the Collector of Customs, Bombay, <i>ex officio</i> ; (e) the General Manager, Great Indian Peninsular Railway, <i>ex officio</i> ; (f) the General Manager, Bombay, Baroda and Central India Railway, <i>ex officio</i> ; (g) one representative chosen by the Provincial Government ; and (h) the Municipal Commissioner for the City of Bombay, <i>ex officio</i>.”

For sub-section (1) of section 6, the fol-

SCHEDULE—Contd.

Year-Number Short title

Amendments

1 2 3

4

lowing shall be substituted, namely :—

“(1) Of the thirteen elective Trustees, two shall be elected by the Municipal Corporation of the City of Bombay and the remaining by such provincial or local bodies representing commercial interests as the Central Government may, from time to time, by notification in the official Gazette, specify, and such notification may also specify the number of Trustees that each of such bodies may elect.”

1890 Ben. III The Calcutta
Port Act,
1890.

For section 5, the following shall be substituted, namely:—

“5. *Constitution of Commissioners.*—There shall be twenty-four Commissioners, that is to say—

(i) the Chairman, *ex officio*;

(ii) the Deputy Chairman, *ex officio*;

(iii) the Collector of Customs, Calcutta, *ex officio*;

(iv) the Chief Executive Officer of the Municipal Corporation for the city of Calcutta, *ex officio*;

(v) the General Manager, East Indian Railway *ex officio*;

(vi) the General Manager, Bengal Nagpur Railway *ex officio*;

(vii) one representative of the Mercantile Marine Department chosen by the Central Government;

(viii) one representative of the Defence Services chosen by the Central Government;

(ix) one representative of the Provincial Government chosen by the Provincial Government;

(x) two representatives of labour chosen by the Central Government after consultation with the registered trade unions, if any, composed of persons employed in the Port ; and

(xi) thirteen elected Commissioners.”

For sub-section (1) of section 6, the following shall be substituted, namely:—

“(1) Of the thirteen elected Commissioners one shall be elected by the Municipal Corporation of the city of Calcutta, one shall be elected by the Howrah Municipality and the remaining by such provincial or local bodies representing commercial interests as the Central Government may, from time to time, by notification in the official Gazette, specify, and

SCHEDULE—*Contd.*

Year	Number	Short title	Amendment
1	2	3	4
1905	Mad. II	The Madras Port Trust Act, 1905.	such notification may also specify the number of Commissioners that each of such bodies may elect.” In section 7, for the word “eighteen” the word “twenty-one” shall be substituted. For section 8, the following shall be substituted, namely:— “8. <i>Appointment of Trustees.</i>—(1) The chairman shall be appointed by the Central Government. The remaining trustees shall be as follows:— (a) the Collector of Customs, Madras <i>ex officio</i>; (b) the Municipal Commissioner for the City of Madras, <i>ex officio</i>; (c) the General Manager, Madras and Southern Mahratta Railway, <i>ex officio</i>; (d) the General Manager, South Indian Railway, <i>ex officio</i>; (e) one representative of the Mercantile Marine Department chosen by the Central Government; (f) one representative of the Defence Services chosen by the Central Government; (g) one representative of the Provincial Government chosen by the Provincial Government; (h) two representatives of labour chosen by the Central Government after consultation with the registered trade unions, if any, composed of persons employed in the port; and (i) eleven elected trustees. (2) Of the eleven elected trustees, one shall be elected by the Municipal Corporation of the City of Madras and the remaining by such provincial or local bodies representing commercial interests as the Central Government may, from time to time, by notification in the official Gazette, specify, and such notification may also specify the number of trustees that each of such bodies may elect. (3) The result of any election held in pursuance of sub-section (2) shall be communicated forthwith to the Central Government by the chief executive authority of the Municipal Corporation or the body concerned.”

The Census Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948.

Act No. XXXVII of 1948.

An Act to provide for certain matters in connection with the taking of census.

WHEREAS it is expedient to provide for the taking of census in the Provinces and Acceding States of India or any part thereof whenever necessary or desirable and to provide for certain matters in connection with the taking of such census ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Census Act, 1948.

(2) It extends to all the Provinces of India and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects census.

2. *Interpretation.*—In this Act, all references to the Provinces of India shall be construed as including reference to the Acceding States to which this Act for the time being extends, and in relation to any such Acceding State, all references to the Provincial Government shall be construed as references to the Government of that Acceding State.

3. *Central Government to take census.*—The Central Government may, by notification in the official Gazette, declare its intention of taking a census in the whole or any part of the territories to which this Act extends, whenever it may consider it necessary or desirable so to do, and thereupon the census shall be taken.

4. *Appointment of census staff.*—(1) The Central Government may appoint a Census Commissioner to supervise the taking of the census throughout the area in which the census is intended to be taken, and Superintendents of Census Operations to supervise the taking of the census within the several Provinces.

(2) The Provincial Government may appoint persons as census officers to take, or aid in, or supervise the taking of, the census within any specified local area and such persons, when so appointed, shall be bound to serve accordingly.

(3) A declaration in writing, signed by any authority authorised by the Provincial Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(4) The Provincial Government may delegate to such authority as it thinks fit the power of appointing census-officers conferred by sub-section (2).

5. *Status of census authorities as public servants.*—The Census Commissioner, all Superintendents of Census Operations and all census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

6. *Discharge of duties of census-officers in certain cases.*—(1) Where the District Magistrate, or such authority as the Provincial Government may appoint in this behalf, by a written order so directs—

(a) every officer in command of any body of men belonging to the naval, military or air forces or of any vessel of war, of India,

(b) every person (except a pilot or harbourmaster) having charge or control of a vessel.

(c) every person in charge of a lunatic asylum, hospital, workhouse,

prison, reformatory or lock-up or of any public, charitable, religious or educational institution.

(d) every keeper, secretary or manager of any *sarai*, hotel, boarding-house, lodging house, emigration depot or club,

(e) every manager or officer of a railway or any commercial or industrial establishment, and

(f) every occupant of immovable property wherein at the time of the taking of the census persons are living,

shall perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property or are employed under him as may be specified in the order.

(2) All the provisions of this Act relating to census-officers shall apply, so far as may be, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which under this section he is directed to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code (XLV of 1860).

7. *Power to call upon certain persons to give assistance.*—The District Magistrate, or such authority as the Provincial Government may, appoint in this behalf for any local area, may, by written order which shall have effect throughout the extent of his district or of such local area, as the case may be, call upon—

(a) all owners and occupiers of land, tenure-holders, and farmers and assignees of land revenue, or their agents,

(b) all members of the district, municipal, *panchayat* and other local authorities and officers and servants of such authorities, and

(c) all officers and members of staff of any factory, firm or establishment,

to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure-holders, farmers and assignees, or in the premises of factories, firms and other establishments, or within the areas for which such local authorities are established, as the case may be; and the persons to whom an order under this section is directed shall be bound to obey it and shall, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

8. *Asking of questions and obligation to answer.*—(1) A census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Provincial Government and published in the official Gazette, he may be directed to ask.

(2) Every person of whom any question is asked under sub-section (1) shall be legally bound to answer such question to the best of his knowledge or belief.

Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

9. *Occupier to permit access and affixing of number.*—Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the

census and as, having regard to the customs of the country, may be reasonable and shall allow them to paint on, or affix to, the place such letters, marks or numbers as may be necessary for the purposes of the census.

10. *Occupier or manager to fill up schedule.*—(1) Subject to such orders as the Provincial Government may issue in this behalf, a census officer may, within the local area for which he is appointed, leave or cause to be left a schedule at any dwelling-house or with the manager or any officer of any commercial or industrial establishment, for the purpose of its being filled up by the occupier of such house or of any specified part thereof or by such manager or officer with such particulars as the Provincial Government may direct regarding the inmates of such house or parts thereof, or the persons employed under such manager or officer, as the case may be, at the time of the taking of the census.

(2) When such schedule has been so left, the said occupier, manager or officer, as the case may be, shall fill it up or cause it to be filled up to the best of his knowledge or belief so far as regards the inmates of such house or part thereof or the persons employed under him as the case may be, at the time aforesaid, and shall sign his name thereto and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as the census-officer may direct.

11. *Penalties.*—

(1) (a) any census-officer or any person lawfully required to give assistance towards the taking of a census who refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty or in obeying any such order, or

(b) any census-officer who intentionally puts any offensive or improper question or knowingly makes any false return or, without the previous sanction of the Central Government or the Provincial Government, discloses any information which he has received by means of, or for the purposes of a census return, or

(c) any sorter, compiler or other member of the census staff who removes, secretes, damages or destroys any census document or deals with any census document in a manner likely to falsify or impair the tabulations of census results, or

(d) any person who intentionally gives a false answer to, refuses to answer to the best of his knowledge or belief, any question asked of him by a census-officer which he is legally bound by section 8 to answer, or

(e) any person occupying any house, enclosure, vessel or other place who refuses to allow a census-officer such reasonable access thereto as he is required by section 9 to allow, or

(f) any person who, removes, obliterated, alters, or damages any letters, marks or numbers which have been painted or affixed for the purposes of the census, or

(g) any person who, having been required under section 10 to fill up a schedule, knowingly and without sufficient cause fails to comply with the provisions of that section, or makes any false return thereunder, or

(h) any person who trespasses into a census office, shall be punishable with fine which may extend to one thousand rupees and in case of a conviction under part (b) or (c) shall also be punishable with imprisonment which may extend to six months.

(2) Whoever abets any offence under sub-section (1) shall be punishable with fine which may extend to one thousand rupees.

12. Sanction required for prosecutions.—No prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government.

13. Operation of other laws not barred.—Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act :

Provide that no such prosecution shall be instituted except with the previous sanction referred to in section 12.

14. Jurisdiction.—No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try, whether under this Act or under any other law, any act or omission which constitutes an offence under this Act.

15. Record of census not open to inspection nor admissible in evidence.—No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such, or any schedule delivered under section 10, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872 (I of 1872), no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.

16. Temporary suspension of other laws as to mode of taking census in municipalities.—Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority, in consultation with the Superintendent of Census Operations or with such other authority as the Provincial Government may authorise in this behalf, shall, at the time appointed for the taking of any census cause the census of the municipality to be taken wholly or in part by any method authorised by or under this Act.

17. Grant of statistical abstracts.—The Census Commissioner or any Superintendent of Census Operations or such person as the Provincial Government may authorise in this behalf may, if he so thinks fit, at the request and cost (to be determined by him) of any local authority or person, cause abstracts to be prepared and supplied containing any such statistical information as can be derived from the census returns for the Provinces of India or the Province, as the case may be, being information which is not contained in any published report and which in his opinion it is reasonable for that authority or person to require.

18. Power to make rules.—(1) The Central Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules providing for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census, and for the general instructions to be issued to such officers and persons.

The Continuance of Legal Proceedings Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September, 1948.

Act No. XXXVIII of 1948.

An Act to provide for the continuance of certain legal proceedings by or against the Secretary of State.

WHEREAS it is expedient to provide for the continuance of certain legal proceedings by or against the Secretary of State in respect of any right of India or any part of India which were pending immediately before the 15th day of August, 1947.

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Continuance of Legal Proceedings Act, 1948.

(2) It extends to all the Provinces of India.

2. *Interpretation.*—In this Act, “the appointed day” means the 15th day of August, 1947.

3. *Continuance of legal proceedings.*—Any legal proceedings which immediately before the appointed day,—

(a) were pending by or against the Secretary of State in any Court within the territories which as from the appointed day became the territories of India by virtue of sub-section (1) of section 2 of the Indian Independence Act, 1947 (10 and 11 Geo. 6, c. 30), and

(b) were in respect of any right of India or any part of India, shall—

(i) if the right in question was that of the Governor-General in Council, be continued by or against the Dominion of India;

(ii) if the right in question was that of the former Province of Bengal or the Punjab, be continued by or against the Province of West Bengal or East Punjab, as the case may be; and

(iii) if the right in question was that of any Governor's Province other than Bengal, the Punjab, the North-West Frontier Province or Sind, be continued by or against that Province.

4. *Exclusion of time in computing period of limitation.*—In computing the period of limitation prescribed for any appeal or application to a Court in respect of any such proceedings as aforesaid, the period from the appointed day up to the 28th day of May, 1948 shall be excluded.

5. *Repeal.*—(1) The Continuance of Legal Proceedings Ordinance, 1948 (XII of 1948) is hereby repealed.

(2) Anything done or any action taken in exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 28th day of May, 1948.

The Indian Registration (Amendment) Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September, 1948.

Act No. XXXIX of 1948.

An Act further to amend the Indian Registration Act, 1908.

WHEREAS it is expedient to amend the Indian Registration Act, 1908 (XVI of 1908) for the purposes hereinafter appearing:

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Registration (Amendment) Act, 1948.

2. *Amendment of section 17, Act XVI of 1908.*—In sub-section (2) of section 17 of the Indian Registration Act, 1908 (hereinafter referred to as the said Act), after clause (x), the following clause shall be inserted, namely:—

“(xa) any order made under the Charitable Endowments Act, 1890

(VI of 1890), vesting any property in a Treasurer of Charitable Endowments or divesting any such Treasurer of any property; or”.

3. *Amendment of section 32, Act XVI of 1908.*—In section 32 of the said Act, for the words and figures “section 31 and section 89”, the words and figures “sections 31, 88 and 89” shall be substituted.

4. *Amendment of section 69, Act XVI of 1908.*—In sub-section (1) of section 69 of the said Act, after clause (g) the following clause shall be inserted, namely:—

“(gg) regulating the manner in which the instruments referred to in sub-section (2) of section 88 may be presented for registration;”.

5. *Substitution of section 88, Act XVI of 1908.*—For section 88 of the said Act, the following section shall be substituted, namely:—

“88. *Registration of documents executed by Government officers or certain public functionaries.*—(1) Notwithstanding anything contained in this Act, it shall not be necessary for—

(a) any officer of Government, or

(b) any Administrator General, Official Trustee or Official Assignee, or

(c) the Sheriff, Receiver or Registrar of a High Court, or

(d) the holder for the time being of such other public office as may be specified in a notification in the official Gazette issued in that behalf by the Provincial Government,

to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him or in his favour in his official capacity, or to sign as provided in section 58.

(2) Any instrument executed by or in favour of an officer of Government or any other person referred to in sub-section (1) may be presented for registration in such manner as may be prescribed by rules made under section 69.

(3) The registering officer to whom any instrument is presented for registration under this section may, if he thinks fit, refer to any Secretary to Government or to such officer of Government or other person referred to in sub-section (1) for information respecting the same and, on being satisfied of the execution thereof, shall register the instrument.”

The Indian Matrimonial (War Marriages) Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948:

Act No XL of 1948.

An Act to confer upon Courts temporary jurisdiction in certain matrimonial causes.

WHEREAS it is expedient to confer upon Courts in the Provinces of India temporary jurisdiction in certain matrimonial causes;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Indian Matrimonial Causes (War Marriages) Act, 1948.

(2) It extends to all the Provinces of India.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “High Court” shall have the same meaning as in the Indian Divorce Act, 1869 (IV of 1869);

(b) “marriage” includes a purported marriage which was void *ab initio*, and “husband” and “wife” shall be construed accordingly;

(c) "war period" means the period commencing on the 3rd day of September, 1939, and ending on the 31st day of March, 1946.

3. *Application of Act.*—The marriages to which this Act applies are marriages solemnized during the war period, where the husband was, at the time of the marriage, domiciled outside India, and the wife was, immediately before the marriage, domiciled in India :

Provided that this Act shall not apply to any marriage if, since the solemnization thereof, the parties thereto have resided together in the country in which the husband was domiciled at the time of the residence.

Explanation.—For the purposes of the above proviso the whole of the United States of America, the whole of the United Kingdom and the whole of any British possession outside India shall each be treated as one country.

4. *Temporary extension of jurisdiction of High Courts.*—In the case of any marriage to which this Act applies, the High Court shall have jurisdiction in and in relation to any proceedings for divorce or for nullity of marriage as if both parties were at all material times domiciled in India ; and subject to the provisions of this Act, the provisions of the Indian Divorce Act, 1869 (IV of 1869), shall apply, so far as may be, in relation to any such proceedings instituted under this Act as if they were proceedings instituted under that Act :

Provided that this section shall not apply in relation to any proceedings for divorce or for nullity of marriage unless—

(a) the petitioner or the respondent professes the Christian religion, and

(b) the proceedings for divorce or for nullity of marriage are commenced not later than three years from the commencement of this Act.

5. *Saving.*—Nothing in this Act shall be deemed to extend or alter the jurisdiction of the High Court in, or in relation to, any proceedings for divorce or for nullity of marriage, where at the commencement of those proceedings the parties are domiciled anywhere in India.

6. *Certain decrees and orders to be recognised.*—The validity of any decree or order made in the United Kingdom by virtue of the Matrimonial Causes (War Marriages) Act, 1944 (7 and 8 Geo. 6, c. 43) shall, by virtue of this Act, be recognised in all Courts in the Provinces of India.

7. *Power to make rules.*—The High Court may make such rules as may be necessary for the purpose of carrying out the objects of this Act.

The Diplomatic and Consular Officers (Oaths and Fees) Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948.

Act No. XLI of 1948.

An Act to provide for the administration of oaths by diplomatic and consular officers and to prescribe the fees leviable in respect of certain of their official duties.

WHEREAS it is expedient to provide for the administration of oaths by diplomatic and consular officers and for the levy of fees in respect of certain official duties performed by them ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948.

2. *Definitions.*—In this Act,—

(a) "consular officer" includes consul-general, consul, vice-consul, con-

sular agent, pro-consul and any other person authorised to perform the duties of consul-general, consul, vice-consul or consular agent ;

(b) "diplomatic officer" means any ambassador, envoy, minister, charge d'affairs, or secretary of embassy or legation ; and

(c) "prescribed" means prescribed by rules made under this Act.

3. *Powers as to oaths and notarial acts abroad.*—(1) Every diplomatic or consular officer may, in any foreign country or place where he is exercising his functions, administer any oath and take any affidavit and also do any notarial act which any notary public may do within the provinces of India ; and every oath, affidavit and notarial act administered, sworn or done by or before any such person shall be as effectual as if duly administered, sworn or done by or before any lawful authority in any Province of India.

(2) Any document purporting to have affixed, impressed or subscribed thereon or thereto the seal and signature of any person authorised by this Act to administer an oath in testimony of any oath, affidavit or act, being administered, taken or done by or before him, shall be admitted in evidence without proof of the seal or signature being the seal or signature of that person, or of the official character of that person.

4. *Punishment for offences under this Act.*—(1) Whoever swears falsely in any oath or affidavit taken or made in accordance with the provisions of this Act shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) Whoever forges or fraudulently alters the seal or signature of any person authorised by or under this Act to administer an oath or tenders in evidence, or otherwise uses, any affidavit having any seal or signature so forged or counterfeited or fraudulently altered knowing the same to be forged, counterfeited or fraudulently altered, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

5. *Trial of offences.*—Any offences under this Act may be inquired into, dealt with, tried and punished in any Province of India in which the person charged with the offence was apprehended or is in custody, in the same manner and to the same extent as if the offence had been committed within the Province where he was apprehended or is in custody.

6. *Power to prescribe fees.*—(1) The Central Government may, from time to time, prescribe the fees to be levied in respect of any matter or thing done by a diplomatic or consular officer in the execution of his office.

(2) All such fees shall be levied, accounted for and applied and may be remitted in such manner as may be prescribed.

(3) A diplomatic or consular officer shall not, save as may be provided by any rules made in this behalf, ask for or take any fee or reward for or on account of any act or thing, or service done, performed or rendered by him in the execution of his office.

7. *Publication and issue of tables of fees.*—(1) Tables of the fees which may, for the time being, be levied under the rules shall be published in such manner and copies thereof shall be issued gratuitously to such persons as may be prescribed.

(2) Every consular officer, and every diplomatic officer in any foreign country or place where there is no consular officer, shall keep exhibited in a conspicuous place in his office a copy of the table of fees to be levied under this Act and shall permit the same to be inspected by any person interested therein.

8. *Power to make rules.*—(1) The Central Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the scale of fees leviable under this Act and the manner in which such fees shall be levied and collected;

(b) the remuneration, if any, payable to a diplomatic or consular officer in the execution of any of the duties vested in him by this Act.

(c) the registers to be kept and the returns to be made in pursuance of this Act; and

(d) the manner in which copies of tables of fees may be published and distributed.

The Indian Merchant Shipping (Amendment) Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948.

Act No. XLII of 1948.

An Act further to amend the Indian Merchant Shipping Act, 1923.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923 (XXI of 1923) for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Merchant Shipping (Amendment) Act, 1948.

2. *Amendment of section 206, Act XXI of 1923.*—In clause (b) of subsection (1A) of section 206 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), for the words “five years” the words “three years” shall be substituted.

The Indian Army (Amendment) Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948.

Act No. XLIII of 1948.

An Act further to amend the Indian Army Act, 1911.

WHEREAS it is expedient further to amend the Indian Army Act, 1911 (VIII of 1911), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Army (Amendment) Act, 1948.

2. *Substitution of section 6A, Act VIII of 1911.*—For section 6A of the Indian Army Act, 1911 (hereinafter referred to as the said Act), the following section shall be substituted, namely:—

“6A. *Relations between forces of Acceding States and Indian Land Forces when acting together.*—When any of the forces of an Acceding State are acting with, or are attached to, any body of His Majesty’s Indian Land Forces, whether within or outside the State, then—

(a) all the provisions of this Act shall apply to such forces and the members thereof as if they formed part of that body of His Majesty’s Indian Land Forces;

(b) for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, any officer, sub-

commissioned officer, warrant officer or non-commissioned officer of such forces shall, in relation to that body of His Majesty's Indian Land Forces, have all such powers and be treated as if he were an Indian commissioned officer, Viceroy's commissioned officer, warrant officer or non-commissioned officer, as the case may be, of His Majesty's Indian Land Forces; and (c) the relative rank of officers, sub-commissioned officers, warrant officers and non-commissioned officers of such forces and of His Majesty's Indian Land Forces shall be such as may be determined by the Central Government or by such other authority as may be prescribed."

3. *Omission of section 6B, Act VIII of 1911.*—Section 6B of the said Act shall be omitted.

4. *Amendment of section 7, Act VIII of 1911.*—(1) In clause (2) of section 7 of the said Act, after the word "means", the words "a person of Indian nationality holding His Majesty's commission in His Majesty's Land Forces or" shall be inserted.

(2) The amendment made by sub-section (1) of this section shall be deemed to have been made with effect from the 15th day of August, 1947.

5. *Repeal.*—The Indian Army (Amendment) Ordinance, 1948 (XIX of 1948) is hereby repealed.

The Durgah Khawaja Sahib (Amendment) Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948.

Act No. XLIV of 1948.

An Act further to amend the Durgah Khawaja Sahib Act, 1936.

WHEREAS it is expedient further to amend the Durgah Khawaja Sahib Act, 1936 (XXIII of 1936), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Durgah Khawaja Sahib (Amendment) Act, 1948.

2. *Amendment of section 5, Act XXIII of 1936.*—In section 5 of the Durgah Khawaja Sahib Act, 1936 (XXIII of 1936),—

(a) in clause (e) of sub-section (1),—

(i) for the word "eleven" the word "nine" shall be substituted;

(ii) after item (vi) the word "and" shall be inserted; and

(iii) items (viii) and (ix) shall be omitted;

(b) for clause (f) of sub-section (1), the following clause shall be substituted, namely:—

"(f) three, co-opted by the members of the Committee referred to in clauses (a) to (e) from among persons residing in any of the Acceding States or in the State of Hyderabad; and";

(c) in clause (g) of sub-section (1), for the words, brackets and letters "in clauses (a) to (f)" the words, brackets and letters "in clauses (a) to (e)" shall be substituted;

(d) in sub-section (2), the brackets, letters and words "(a) he cannot read and write Urdu; or (b)" shall be omitted; and

(e) in sub-section (4), for the words "fails to do so within six months" the words "is for any reason unable to do so" shall be substituted.

3. *Repeal of Ordinance X of 1948.*—The Durgah Khawaja Sahib (Amendment) Ordinance, 1948 (X of 1948) is hereby repealed.

The Indian Telegraph (Amendment) Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948.

Act No. XLV of 1948.

An Act to amend the Indian Telegraph Act, 1885.

WHEREAS it is expedient to amend the Indian Telegraph Act, 1885, (XIII of 1885) for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Telegraph (Amendment) Act, 1948.

2. *Amendment of section 1, Act XIII of 1885.*—For sub-section (2) of section 1 of the Indian Telegraph Act, 1885 (XIII of 1885) (herein after referred to as the said Act), the following sub-section shall be substituted, namely :—

“(2) It extends to the whole of India.”

3. *Amendment of sections 4 and 20, Act XIII of 1885.*—In sections 4 and 20 of the said Act, for the words “the Provinces” wherever they occur, the word “India” shall be substituted.

4. *Insertion of new section in Act XIII of 1885.*—After section 34 of the said Act, the following section shall be inserted, namely :—

“35. ‘Provincial Government’ to include Government of an Acceding State.—In the application of this Act to any Acceding State,—

(a) all references to a Provincial Government shall be construed as references to the Government of that Acceding State; and

(b) references to the Code of Criminal Procedure, 1898, in section 20 and to the Indian Penal Code in section 31 shall be construed as references to the corresponding law for the time being in force in that Acceding State.”

The Coal Mines Provident Fund and Bonus Schemes Act, 1948.

Received the assent of the Governor-General on the 3rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd September 1948.

Act No. XLVI of 1948.

An Act to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines.

WHEREAS it is expedient to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(*) This Act may be called the Coal Mines Provident Fund and Bonus Schemes Act, 1948.

(2) It extends to all the Provinces of India and to all Acceding States which, by their Instruments of Accession, have accepted the subject-matter of this Act as a matter with respect to which the Dominion Legislature may make laws for such State.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “bonus” means any sum of money payable to an employee in a coal mine under the Coal Mines Bonus Scheme framed under this Act ;

(b) “coal mine” means any excavation where any operation for the purpose of obtaining coal has been or is being carried on and includes all

works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a coal mine :

Provided that it shall not include any part of the coal mine on which a manufacturing process is being carried on unless such process is a process for coke-making or the dressing of minerals ;

(c) "contribution" means the contribution payable in respect of a member under the Coal Mines Provident Fund Scheme framed under this Act ;

(d) "employee" means any person who is employed in any kind of work, manual or otherwise, in or in connection with a coal mine and who gets his wages directly or indirectly from the employer ;

(e) "employer" means the owner of a coal mine as defined in clause (g) of section 3 of the Indian Mines Act, 1923 (IV of 1923) ;

(f) "Fund" means the provident fund established under the Coal Mines Provident Fund Scheme ; and

(g) "member" means a member of the Fund.

3. *Coal Mines Provident Fund Scheme.*—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Provident Fund Scheme for the establishment of a provident fund for employees in coal mines and specify the coal mines to which the said scheme shall apply.

(2) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the First Schedule.

4. *Fund to be recognised under Act XI of 1922.*—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IX-A of that Act.

5. *Coal Mines Bonus Scheme.*—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Bonus Scheme for the payment of bonus to employees in coal mines and specify the coal mines to which the said scheme shall apply.

(2) A scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Second Schedule.

6. *Retrospective operation of a scheme.*—A scheme framed under this Act may provide that any of its provisions shall come into force either prospectively or retrospectively with effect from such date as may be specified in this behalf in the scheme.

7. *Modification of a scheme.*—The Central Government may, by notification in the official Gazette add to, amend or vary a scheme framed under this Act.

8. *Protection against attachment.*—(1) The amount of the provident fund standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the member and neither the Official Assignee nor any Receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of any member in the Fund at the time of his death and payable to his nominee under the Coal Mines Provident Fund Scheme shall, subject to any deduction authorised by the said scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the member.

9. *Penalty.*—(1) Any scheme framed under this Act may provide that

any person who contravenes any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No Court shall take cognizance of any offence punishable under any such scheme except on a report in writing of the facts constituting such offence made by an Inspector with the previous sanction of such authority as may be specified in this behalf by the Central Government.

10. Inspectors.—(1) The Central Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of the Coal Mines Provident Fund Scheme or the Coal Mines Bonus Scheme and may define their jurisdiction.

(2) An Inspector may, in respect of any coal mine within his jurisdiction,—

(a) require an employer to furnish such information as he may consider necessary for the purposes of any scheme framed under this Act;

(b) at any reasonable time, enter any coal mine or its office and require any one found in charge thereof to produce before him such accounts, books, registers and other documents relating to the employment of persons in the coal mine as he may consider necessary;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the coal mine or its office or whom the Inspector has reasonable cause to believe to be or to have been an employee in the coal mine.

(d) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

11. Priority of payment of contributions and bonus over other debts.—The amount due in respect of any contribution or bonus under a scheme framed under this Act, or any charges incurred in respect of the administration of any such scheme, shall, where the liability therefor has accrued before the person liable has been adjudicated insolvent or, in the case of a company ordered to be wound up, before the date of such order, be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of a company being wound up, as the case may be.

12. Repeal of Ordinance VII of 1948.—(1) The Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948), is hereby repealed.

(2) Notwithstanding any such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 23rd day of April, 1948.*

THE FIRST SCHEDULE

(See section 3)

Matters to be provided for in the Coal Mines Provident Fund Scheme.

1. The employee, or class of employees who shall join the Fund, the contributions payable to the Fund and the conditions under which an employee may be exempted from joining the Fund or from payment of contributions.

(2) The payment of contributions to the Fund by the employees, or

by the employers on behalf of the employees, the rate, time and manner of payment of such contributions, and the manner in which such contributions or part thereof shall be recovered from employees.

3. The payment by the employer of such sums of money as may be considered necessary to meet the cost of administering the Fund and the rate at which and the manner in which it shall be paid.

4. The constitution of a Board of Trustees consisting of nominees of the Central Government and representatives of employers and employees nominated by the Central Government in consultation with the representative organisations concerned, subject to the condition that the number of the representatives of the employees shall not be less than the number of the representatives of the employers; the number of Trustees and the terms and conditions under which they may be nominated, and the time, place and procedure of meetings of the Board.

5. The appointment of officers and servants of the Board and the opening of regional and other offices.

6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund, the preparation of a budget, the audit of accounts and the submission of reports to the Central Government.

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.

8. The fixation of the rate of interest payable to members by the Central Government in consultation with the Board of Trustees.

9. The form in which an employee shall furnish particulars about himself and his family when required.

10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or the change of such nomination.

11. The registers and records to be maintained by the employer and the returns to be furnished by him.

12. The form or design of an identity card or a token or a disc for purposes of identifying any employee and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule.

14. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Provident Fund Scheme.

THE SECOND SCHEDULE

(See section 5)

Matters to be provided for in the Coal Mines Bonus Scheme.

1. The payment of bonus dependent on the attendance of an employee in a coal mine during any period.

2. The employees or class of employees who shall be eligible for the bonus and the conditions of eligibility.

3. The rate at which the bonus shall be payable to an employee and the manner in which the bonus shall be calculated.

4. The conditions under which an employee may be debarred from getting the bonus in whole or in part.

5. The rate at which sums shall be set apart by the employer for payment of bonus, and the time and manner of such payment.

6. The registers and records to be maintained by the employer and the returns to be furnished by him.

7. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Bonus Scheme.

The Displaced Persons (Institution of Suits) Act, 1948.

Received the assent of the Governor General on the 4th September, 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 4th September 1948.

Act No. XLVII of 1948.

An Act to make certain special provisions for the institution of suits by displaced persons.

WHEREAS it is expedient to make certain special provisions for the institution of suits by displaced persons;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Displaced Persons (Institution of Suits) Act, 1948.

(2) It extends to all the Provinces of India.

2. *Duration.*—This Act shall remain in force for a period of three years only, but upon the expiry of the said period section 6 of the General Clauses Act, 1897 (X of 1897) shall apply as if this Act had been then repealed by a Central Act.

3. *Definition.*—In this Act, “displaced person” means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area now forming part of Pakistan, has been displaced from, or has left, his place of residence in such area after the 1st day of March, 1947, and who has subsequently been residing in India.

4. *Institution of suits by displaced persons.*—Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V. of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a Court within the local limits of whose jurisdiction he or the defendant or any of the defendants, where there are more than one at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, if—

(i) the defendant or where there are more than one, each of the defendants, actually and voluntarily resides or carries on business, or personally works for gain in India and is not a displaced person;

(ii) the cause of action, wholly or in part, arises or has arisen in a place now situate within the territories of Pakistan;

(iii) the Court in which the suit is instituted is otherwise competent to try it; and

(iv) the suit does not relate to immovable property.

5. *Validation of certain Pending Suits.*—Any suit instituted by a displaced person after the 15th day of August, 1947, which if this Act had come into force on that day would have been validly instituted in pursuance of section 4 shall, if pending at the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly.

Explanation—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

6. *Restoration of certain dismissed suits.*—Where any suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, which if this Act had come into force on that

day would have been validly instituted in pursuance of section 4, had been dismissed solely on the ground that it had not been validly instituted, the Court shall, on application made within one month from the commencement of this Act, make an order setting aside the decree and shall proceed with the suit.

7. *Restoration of suit where appeal dismissed.*—Where, in any appeal arising from a suit instituted by a displaced person after the 15th day of August, 1947, and before the commencement of this Act, a decree had been passed dismissing such appeal solely on the ground that the suit had not been validly instituted and the institution of such suit would have been valid if section 4 had come into force on the aforesaid day, the Appellate Court shall, on application made to it within one month from the commencement of this Act, make an order setting aside its decree and remand the suit to the Court of first instance for trial.

8. *Extension of period of limitation.*—Notwithstanding anything contained in section 3 of the Indian Limitation Act, 1908 (IX of 1908), or any special or local law, any suit instituted in pursuance of section 4 of this Act may be admitted after the period of limitation prescribed therefor when the plaintiff satisfies the Court that he was unable to institute the suit within such period owing to causes connected with his being a displaced person.

9. *Repeal of Ordinance XVIII of 1948.*—(1) The Displaced Persons (Institution of Suits) Ordinance, 1948 (XVIII of 1948) is hereby repealed.

(2) Notwithstanding such repeal, any suit instituted or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been instituted or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 21st day of July, 1948.

The Income-tax and Business Profits Tax (Amendment) Act, 1948.

Received the assent of the Governor-General on the 8th September, 1948 and is published in the *Gazette of India*, Extraordinary, Part IV date 1 the 8th September 1948.

Act No. XLVIII of 1948.

An Act further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922 (XI of 1922) and the Business Profits Tax Act, 1947 (XXI of 1947), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

CHAPTER I PRELIMINARY

1. *Short title.*—(1) This Act may be called the Income-tax and Business Profits Tax (Amendment) Act, 1948.

(2) Sections 3 to 12 shall be deemed to have come into force on the 30th day of March, 1948, and the amendment made in the Indian Income-tax Act, 1922 (XI of 1922) by section 2 shall be deemed to be operative so as to apply in relation to all assessments subsequent to the assessment for the year ending on the 31st day of March, 1948.

Sections 13 to 15 shall be deemed to have come into force on the day on which the Business Profits Tax Act, 1947 (XXI of 1947) came into force.

CHAPTER II

AMENDMENT OF ACT XI OF 1922.

2. *Amendment of section 2, Act XI of 1922*—For clause (6) of section 2 of the Indian Income-tax Act, 1922 (hereinafter in this Chapter, referred to as the said Act), the following shall be substituted, namely :—

“(6) “company” means an Indian company as defined in clause (7A) or any Indian or non-Indian association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act.”

3. *Amendment of section 4, Act XI of 1922*.—In *Explanation 2* to sub-section (1) of section 4 of the said Act, the words “and not being pension payable without India” shall be omitted.

4. *Amendment of section 9, Act XI of 1922*.—In section 9 of the said Act, after sub-section (3), the following sub-section shall be added, namely :—

“(4) For the purposes of this section, the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.”

5. *Amendment of section 12B, Act XI of 1922*.—In section 12B of the said Act,—

(a) in the third proviso to sub-section (2), after the words “property of the assessee” the words, brackets and figure “or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-section (3)” shall be inserted ;

(b) to sub-section (3) the following proviso shall be added, namely :—

“Provided that where the capital asset became the property of the assessee—

(i) before the 1st day of April, 1947, under a deed of gift or on the partition of a Hindu undivided family, the actual cost allowable to him shall be the fair market value of the capital asset on the date of the gift or the date of the partition, as the case may be, if such value is greater than the actual cost to the previous owner or the fair market value thereof on the 1st day of January, 1939, where the third proviso to sub-section (2) applies ;

(ii) on or after the 1st day of April, 1947, on the partition of a Hindu undivided family, the cost allowable to him shall be the fair market value on the date of the partition.”

6. *Amendment of section 14, Act XI of 1922*.—To sub-section (1) of section 14 of the said Act, after the words “income of the family” the words “or in the case of an impartible estate where such sum has been paid out of the income of the holder of the estate belonging to the family” shall be added.

7. *Insertion of new section in Act XI of 1922*.—After section 33A of the said Act, the following section shall be inserted, namely :—

“33B. *Power of Commissioner to revise Income-tax Officer's orders*.—

(1) The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(2) No order shall be made under sub-section (1)—

(a) to revise an order of re-assessment made under the provisions of section 34 ; or

(b) after the expiry of two years from the date of the order sought to be revised.

(3) Any assessee objecting to an order passed by the Commissioner under sub-section (1) may appeal to the Appellate Tribunal within 60 days of the date on which the order is communicated to him.

(4) An appeal to the Appellate Tribunal under sub-section (3) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a treasury receipt in support of having paid the fee of Rs. 100, and such appeal shall be dealt with in the same manner as if it were an appeal under sub-section (1) of section 33."

8. *Amendment of section 34, Act XI of 1922.*—For section 34 of the said Act, the following section shall be substituted, namely :—

"34. *Income escaping assessment.*—(1) If—

(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of an assessee to make a return of his income under section 22 for any year or to disclose fully and truly all material facts necessary for his assessment for that year, income, profits or gains chargeable to income-tax have escaped assessment for that year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under the Act, or excessive loss or depreciation allowance has been computed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that income, profits or gains chargeable to income-tax have escaped assessment for any year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under this Act, or that excessive loss or depreciation allowance has been computed,

he may in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that year serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22 and may proceed to assess or reassess such income, profits or gains or recompute the loss or depreciation allowance; and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that—

(i) The Income-tax Officer shall not issue a notice under this sub-section, unless he has recorded his reasons for doing so and the Commissioner is satisfied on such reasons recorded that it is a fit case for the issue of such notice ;

(ii) the tax shall be chargeable at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be ; and

(iii) where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person under section 43, this sub-section shall have effect as if for the periods of eight years and four years a period of one year was substituted.

Explanation.—Production before the Income-tax Officer of account-books or other evidence from which material facts could with due diligence

have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section.

(2) Where an assessment is reopened in circumstances falling under clause (b) of sub-section (1), the assessee may, if he has not impugned any part of the original assessment order for that year either under section 30 or under section 33A, claim that the proceedings under sub-section (1) of this section shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the items alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made :

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 33B or section 35, or by a decision of the High Court or of the Privy Council under section 66 and section 66A.

(3) No order of assessment under section 23 to which clause (c) of sub-section (1) of section 28 applies or of assessment or re-assessment in cases falling within clause (a) of sub-section (1) of this section shall be made after the expiry of eight years, and no order of assessment or re-assessment in any other case shall be made after the expiry of four years, from the end of the year in which the income, profits or gains were first assessable :

Provided that where a notice under sub-section (1) has been issued within the time therein limited, the assessment or re-assessment to be made in pursuance of such notice may be made before the expiry of one year from the date of the service of the notice even if such period exceeds the period of eight years or four years, as the case may be :

Provided further that nothing contained in this sub-section shall apply to a re-assessment made under section 27 or in pursuance of an order under section 31, section 33, section 33A, section 33B, section 66 or section 66A "

9. *Amendment of section 46, Act XI of 1922.*—After sub-section (5) of section 46 of the said Act, the following sub-section shall be inserted, namely :—

(5A) The Income-tax Officer may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income-tax Officer) require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Income-tax Officer, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the tax-payer in respect of arrears of income-tax and penalty or the whole of the money when it is equal to or less than that amount.

The Income-tax Officer may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

Any person making any payment in compliance with a notice under this sub-section shall be deemed to have made the payment under the authority of the assessee and the receipt of the Income-tax Officer shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the amount referred to in the receipt.

Any person discharging any liability to the assessee after receipt of the

notice referred to in the sub-section shall be personally liable to the Income-tax Officer to the extent of the liability discharged or to the extent of the liability of the assessee for tax and penalties, whichever is less.

If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Income-tax Officer, further proceedings may be taken by and before the Collector on the footing that the Income-tax Officer's notice has the same effect as an attachment by the Collector in exercise of his powers under the proviso to sub-section (2) of section 46.

Where a person to whom a notice under this sub-section is sent objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer."

10. Omission of section 49, Act XI of 1922.—Section 49 of the said Act shall be omitted.

11. Amendment of section 49A, Act XI of 1922.—In section 49A of the said Act,—

(a) in sub-section (1),—

(i) for the words "on which has been paid" the words "on which have been paid" shall be substituted ;

(ii) between the words "under this Act and" and "Dominion income-tax", the word "either" shall be inserted ;

(iii) after the words "Dominion income-tax in one or more countries" at the end, the words "or Burma income-tax" shall be added ;

(b) after sub-section (2), the following sub-section shall be added, namely :—

"(3) for the purposes of this section 'Burma income-tax' means any income-tax or super-tax charged under any law in force in Burma where the laws of Burma provide for relief in respect of tax charged on income both in Burma and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section."

12. Amendment of section 49AA, Act XI of 1922.—In section 49AA of the said Act, after the word "Pakistan", wherever it occurs, the words "or the United Kingdom" shall be inserted.

CHAPTER III

AMENDMENT OF ACT XXI OF 1947.

13. Amendment of section 2, Act XXI of 1947.—In section 2 of the Business Profits Tax Act, 1947 (hereinafter in this Chapter referred to as the said Act),—

after clause (8), the following clause shall be inserted, namely :—

(8A) "director's remuneration" includes all remuneration payable by a company to a director thereof in respect of any services rendered to or employment with the company in any capacity whatever ;

14. Amendment of section 9, Act XXI of 1947.—In section 9 of the said Act,—

(a) after the words "an individual", wherever they occur, the words "or a Hindu undivided family" after the words "such individual", wherever they occur, the words "or Hindu undivided family", after the word "he" and the word "him" where they occur, the words "or it", and after the word "his" the words "or its" shall be inserted ;

(b) after the word "partner", the words "or by a company which for

the purposes of this section is deemed to be a firm in which he or it is interested" shall be inserted ;

(c) to the last proviso the following words shall be added, namely :—
"and such individual or Hindu undivided family shall not be treated as a working partner in relation to such business for the purpose of sub-clause (b) of clause (1) of section 2 "

15. *Amendment of Schedule II, Act XXI of 1947.*—In rule 2 of Schedule II to the said Act,—

(a) for sub-rules (1) and (2), the following sub-rule shall be substituted, namely :—

"(1) Where the company is one to which rule 3 of Schedule I applies, its capital shall be the sum of the amounts of its paid-up share capital and of its reserves in so far as they have not been allowed in computing the profits of the company for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), diminished by the cost to it of its investments or other property the income from which is not includable in the profits, so far as that cost exceeds any debt for money borrowed by it." ;

(b) sub-rule (3) shall be renumbered as sub-rule (2).

The Taxation on Income (Investigation Commission) (Second Amendment) Act, 1948.

Received the assent of the Governor-General on the 8th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 8th September 1948.

Act No. XLIX of 1948.

An Act further to amend the Taxation on Income (Investigation Commission) Act, 1947.

WHEREAS it is expedient further to amend the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Taxation on Income (Investigation Commission) (Second Amendment) Act, 1948.

2. *Amendment of section 5, Act XXX of 1947.*—In section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words and figures "30th day of June, 1948", wherever they occur, the words and figures "1st day of September, 1948" shall be substituted.

3. *Repeal of Ordinance XV of 1948.*—(1) The Taxation on Income (Investigation Commission) (Amendment) Ordinance, 1948 (XV of 1948), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 30th day of June, 1948.

The Cantonments (Amendment) Act, 1948.

Received the assent of the Governor-General on the 8th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 8th September, 1948.

Act No. I of 1948.

An Act further to amend the Cantonments Act, 1924.

WHEREAS it is expedient further to amend the Cantonments Act, 1924 (II of 1924), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Cantonments (Amendment) Act, 1948.

2. *Amendment of sections 12 and 280, Act II of 1924.*—In section 12 and in clause (cc) of sub-section (2) of section 280 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), for the words “Service of Executive Officers”, the words “Military Lands and Cantonments Service” shall be substituted.

3. *Amendment of section 276, Act II of 1924.*—In section 276 of the said Act, the words, letter, brackets and figures “clause (a) of section 137” shall be omitted.

The Imperial Library (Change of Name) Act, 1948.

Received the assent of the Governor-General on the 8th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 8th September 1948.

Act No. LI of 1948,

An Act to change the name of the Imperial Library.

WHEREAS it is expedient to change the name of the Imperial Library ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Imperial Library (Change of Name) Act, 1948.

2. *Imperial Library to be known as “National Library”.*—On and after the commencement of this Act, the Imperial Library shall be known as “the National Library”, and any reference to the Imperial Library in any law for the time being in force or in any indenture, instrument or other document shall be construed as a reference to the National Library.

The Bombay Public Security Measures (Delhi Amendment) Act, 1948.

Received the assent of the Governor-General on the 8th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 8th September 1948.

Act No. LII of 1948.

An Act to amend the Bombay Public Security Measures Act, 1947, as extended to the Province of Delhi.

WHEREAS it is expedient to amend the Bombay Public Security Measures Act, 1947 (Bombay Act VI of 1947), as extended to the Province of Delhi, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Bombay Public Security Measures (Delhi Amendment) Act, 1948.

(2) It extends to the Province of Delhi.

2. *Amendment of section 13 of Bombay Act VI of 1947 as extended to Delhi.*—After sub-section (2) of section 13 of the Bombay Public Security Measures Act, 1947 (Bombay Act VI of 1947), as extended to the Province of Delhi, the following sub-section shall be inserted, and shall be deemed always to have been inserted, namely :—

(2A) A Special Judge trying an offence under this Act may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence, tender a pardon to such

person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof. Any pardon so tendered shall, for the purposes of sections 339 and 339A of the Code, be deemed to have been tendered under section 338 of the Code."

3. *Repeal of Ordinance XIV of 1948.*—The Bombay Public Security Measures Act (Delhi Amendment) Ordinance, 1948 (XIV of 1948), is hereby repealed.

The Mines and Minerals (Regulation and Development) Act, 1948.

Received the assent of the Governor-General on the 8th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 8th September 1948.

Act No. LIII of 1948.

An Act to provide for the regulation of mines and oilfields and for the development of minerals.

WHEREAS it is expedient in the public interest to provide for the regulation of mines and oilfields and for the development of minerals to the extent hereinafter specified ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Mines and Minerals (Regulation and Development) Act, 1948.

(2) It extends to all the Provinces of India and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects mines and oilfields and the development of minerals.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Declaration as to expediency of control by Central Government.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of mines and oilfields and the development of minerals to the extent hereinafter provided.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) the expression "lessor" and "lessee" respectively include a licensor and licensee ;

(b) "mine" means any excavation for the purpose of searching for or obtaining minerals and includes an oil-well ;

(c) "minerals" include natural gas and petroleum ;

(d) "mining lease" means a lease granted for the purpose of searching for, winning, working, getting, making merchantable, carrying away or disposing of minerals or for purposes connected therewith, and includes an exploring or a prospecting license ;

(e) "oilfield" means any area where any operation for the purpose of obtaining natural gas and petroleum, crude oil, refined oil, partially refined oil and any of the products of petroleum in a liquid or solid state, is to be or is being carried on.

4. *No mining lease to be valid unless it is in accordance with this Act.*—

(1) No mining lease shall be granted after the commencement of this Act otherwise than in accordance with the rules made under this Act,

(2) Any mining lease granted contrary to the provisions of sub-section (1) shall be void and of no effect.

5. *Power to make rules as respects mining leases.*—(1) The Central

Government may, by notification in the official Gazette, make rules for regulating the grant of mining leases or for prohibiting the grant of such leases in respect of any mineral or in any area.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which, the minerals or areas in respect of which and the persons by whom, applications for mining leases may be made and the fees to be paid on any such applications ;

(b) the authority by which, the terms on which, and the conditions subject to which, mining leases may be granted ;

(c) the maximum or minimum area and the period for which any mining lease may be granted, and the terms on which leases in respect of contiguous areas may be amalgamated ;

(d) the fixing of the maximum and minimum rent payable by a lessee, whether the mine is worked or not.

6. *Power to make rules as respects mineral development.*—(1) The Central Government may, by notification in the official Gazette, make rules for the conservation and development of minerals.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the regulation or prohibition of the mining, quarrying or digging for or the excavating or collecting of minerals from any mine or in any area ;

(b) the manner in which and the persons by whom any mineral or any area as respects which the grant of mining leases is prohibited may be developed or worked ;

(c) the development of any mineral resources in any area by prescribing or regulating the use of any engines, machinery or other equipment ;

(d) the regulation of the drilling, redrilling, deepening, shutting down, plugging and abandoning of oilwells in an oilfield and for the limitation or prohibition of such operations and for the taking of remedial measures to prevent waste of or damage to oil ;

(e) the regulation of the methods of producing oil in any oilfield, and the limitation or prohibition of such methods ;

(f) the compulsory notification of all new borings and shaft sinkings, and the preservation of boring-records and specimens of cores of all new bore-holes ;

(g) the taking of samples from mines and new bore-holes ;

(h) the regulation of the arrangements for the storage of minerals and the stocks thereof that may be kept by any person ;

(i) the levy and collection of royalties, fees or taxes in respect of minerals mined, quarried, excavated or collected ;

(j) the submission by the owners or lessees of mines of special or periodical returns and reports, and the forms in which and the authorities to whom such returns and reports shall be submitted.

7. *Power to make rules for modification of existing leases.*—(1) The Central Government may, by notification in the official Gazette, make rules for the purpose of modifying or altering the terms and conditions of any mining lease granted prior to the commencement of this Act so as to bring such lease into conformity with the rules made under sections 5 and 6 :

Provided that any rules so made which provide for the matters mentioned in clause (c) of sub-section (2) shall not come into force until

they have been approved, either with or without modifications, by the Central Legislature.

(2) The rules made under sub-section (1) shall provide—

(a) for giving previous notice of the modification or alteration proposed to be made thereunder to the lessee, and where the lessor is not the Central Government also to the lessor, and for affording them an opportunity of showing cause against the proposal;

(b) for the payment of compensation by the party who would be benefited by the proposed modification or alteration to the party whose rights under the existing lease would thereby be adversely affected; and

(c) for the principles on which, the manner in which and the authority by which the said compensation shall be determined.

8. *Delegation.*—The Central Government may, by notification in the official Gazette, direct that any power exercisable under this Act shall be exercised, subject to such conditions, if any, as may be specified therein by such officer or authority as may be specified in the direction.

9. *Penalties.*—(1) Any rule made under any of the provisions of this Act may provide that any contravention thereof shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever, after having been convicted of any offence referred to in sub-section (1), continues to commit such offence shall be punishable for each day after the date of the first conviction during which he continues so to offend, with fine which may extend to one hundred rupees.

10. *Rules to be laid before the Legislature.*—All rules made under any of the provisions of this Act shall be laid before the Central Legislature as soon as may be after they are made.

11. *Power of inspection.*—(1) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose mentioned in this Act or the rules made thereunder, any officer authorised by the Central Government in this behalf shall have the right to—

(a) enter and inspect any mine;

(b) order the production of any document, book, register or record in the possession or power of any person having the control of or connected with, any mine;

(c) examine any person having the control of, or connected with, any mine.

(2) Any officer authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

12. *Relaxation of rules in special cases.*—The Central Government may, if satisfied that it is in the public interest so to do, authorise in any case the granting of any mining lease or the working of any mine on terms and conditions different from those laid down in the rules made under sections 5 and 6.

13. *Act to be binding on the Crown.*—The provisions of this Act shall be binding on the Crown, whether in the right of the Dominion or of a Province.

14. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

The Indian Income-tax (Amendment) Act, 1948.

Received the assent of the Governor-General on the 10th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 10th September 1948.

Act No. LV of 1948.

An Act further to amend the Indian Income-tax Act, 1922.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922 (XI of 1922), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title*.—This Act may be called the Indian Income-tax (Amendment) Act, 1948.

2. *Amendment of section 15B, Act XI of 1922*.—In sub-section (1) of section 15B of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), after the words “in respect of any sums paid by him” the words and figures “on or after the 1st day of April, 1948” shall be inserted.

3. *Amendment of section 54, Act XI of 1922*.—In sub-section (3) of section 54 of the said Act, at the end of clause (m) the word “or” shall be inserted, and after clause (m) the following clauses shall be inserted, namely :—

“(n) of such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investments and balance of payments ; or

(o) of such information as may be required by any officer or department of the Central Government or of a Provincial Government for the purpose of investigation into the conduct and affairs of any public servant.”

4. *Repeal of Ordinance XIII of 1948*.—The Indian Income-tax (Amendment) Ordinance, 1948 (XIII of 1948), is hereby repealed.

The Territorial Army Act, 1948.

Received the assent of the Governor-General on the 10th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 10th September 1948.

Act No. LVI of 1948.

An Act to provide for the constitution of a Territorial Army.

WHEREAS it is expedient to provide for the constitution of a Territorial Army ;

It is hereby enacted as follows :—

1. *Short title, extent and application*.—(1) This Act may be called the Territorial Army Act, 1948.

(2) It extends to the whole of India and applies to all classes of persons in the Territorial Army, wherever they may be.

2. *Definitions*.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “enrolled” means enrolled in the Territorial Army under the provisions of this Act ;

(b) “officer” means an officer of any of the two classes specified in section 5 ;

(c) “non-commissioned officer” means a person holding a non-commissioned rank in the Territorial Army, and includes an acting non-commissioned officer ;

(d) “prescribed” means prescribed by rules made under this Act ;

(e) the expression “regular forces” means officers and other ranks who,

by their commission, terms of enrolment or otherwise, are liable to render continuously for a term military service under the Indian Army Act, 1911 (VIII of 1911); and

(f) all words and expressions used herein and defined in the Indian Army Act, 1911, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Act.

3. *Constitution of the Territorial Army.*—(1) There shall be raised and maintained in the manner hereinafter provided an army to be designated the Territorial Army.

(2) The Central Government may constitute such number of units of the Territorial Army as it thinks fit and may disband or reconstitute any unit so constituted.

4. *Personal of the Territorial Army.*—There shall be the following classes of persons in the Territorial Army, namely,—

(a) officers; and

(b) enrolled persons.

5. *Officers.*—Officers in the Territorial Army shall be of the two following classes, namely,—

(a) officers holding commissions in the Territorial Army granted by the Governor-General with designations of rank corresponding to those of Indian commissioned officers; and

(b) junior commissioned officers holding commissions in the Territorial Army granted by the Governor-General with designations of rank corresponding to those of Viceroy's commissioned officers.

6. *Persons eligible for enrolment.*—Any person domiciled in India may offer himself for enrolment in the Territorial Army, and may, if he satisfies the prescribed conditions, be enrolled for such period and subject to such conditions as may be prescribed.

7. *Liability for military service.*—(1) No officer or enrolled person shall be required to perform military service beyond the limits of India save under a general or special order of the Central Government.

(2) Subject to the provisions of sub-section (1), every officer or enrolled person shall, subject to such conditions as may be prescribed, be bound to serve in any unit of the Territorial Army to which he is for the time being attached, and shall be subject to all the rules made under this Act in relation to such unit.

(3) Every officer or enrolled person shall be liable to perform military service,—

(a) when called out in the prescribed manner to act in support of the civil power or to provide essential guards;

(b) when embodied in the prescribed manner for training or for supporting or supplementing the regular forces; and

(c) when attached to any regular forces either at his own request or under the prescribed conditions.

8. *Discharge.*—Every person enrolled under this Act shall be entitled to receive his discharge from the Territorial Army on the expiration of the period for which he was enrolled and any such person may, prior to the expiration of that period, be discharged from the said army by such authority and subject to such conditions as may be prescribed:

Provided that no enrolled person who is for the time being engaged in military service under the provisions of this Act, shall be entitled to receive his discharge before the termination of such service.

9. *Application of the Indian Army Act, 1911.*—(1) Every officer, when

doing duty as such officer; and every enrolled person when called out or embodied or attached to any regular forces, shall, subject to such adaptations and modifications as may be made therein by the Central Government by notification in the official Gazette, be subject to the provisions of the Indian Army Act, 1911 (VIII of 1911), and the rules or regulations made thereunder in the same manner and to the same extent as if such officer or enrolled person held the same rank in the regular forces as he holds for the time being in the Territorial Army.

(2) When an offence punishable under the Indian Army Act, 1911 (VIII of 1911), has been committed by any person whilst subject to that Act under the provisions of sub-section (1) such person may be taken into and kept in military custody and tried and punished for such offence as aforesaid in like manner as he might have been taken into and kept in military custody, tried and punished if he had continued to be so subject.

10. *Summary trial and punishment.*—In addition to, or in substitution for, any punishment or punishments to which he may be liable under the Indian Army Act, 1911 (VIII of 1911), any enrolled person may be punished either by a criminal Court or summarily by order of the prescribed authority for any offence under that Act or for the contravention of any of the provisions of this Act or of any rules made thereunder with fine which may extend to one hundred rupees to be recovered in such manner and by such authority as may be prescribed:

Provided that no fine shall be summarily inflicted by order of the prescribed authority in any case in which the accused claims to be tried by a criminal Court.

11. *Jurisdiction to try offences.*—No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence made punishable by or under this Act.

12. *Presumption as to certain documents.*—Where an enrolled person is required by or in pursuance of any rule made under this Act to attend at any place, a certificate purporting to be signed by the prescribed officer stating that the person so required to attend failed to do so in accordance with such requirement shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

13. *Persons subject to this Act to be deemed part of regular forces for certain purposes.*—For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898 (V of 1898), all officers, non-commissioned officers and other enrolled persons who have been attached to a unit shall be deemed to be officers, non-commissioned officers and soldiers respectively of the regular forces.

14. *Power to make rules.*—(1) The Central Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the manner in which, the period for which and the conditions subject to which any person may be enrolled under this Act;

(b) prescribe the manner in which and the conditions subject to which officers and enrolled persons may be called out for service, or embodied for training or for supplementing the regular forces or attached to any regular forces;

(c) prescribe preliminary and periodical military training, compulsory and voluntary, for any enrolled person and provide for the embodiment of any unit for that purpose;

(d) define the manner in which and the conditions under which any enrolled person may be excused from training ;

(e) prescribe the authorities by which and the conditions subject to which enrolled persons may be discharged under section 8 ;

(f) prescribe the authorities by which offences under this Act may be punished and the fine inflicted may be recovered ;

(g) prescribe the officers by whom certificates may be signed under section 12 ;

(h) generally provide for any other matter which under this Act is to be or may be prescribed.

15. *Repeal of Act XLVIII of 1920.*—The Indian Territorial Force Act, 1920 (XLVIII of 1920) is hereby repealed.

The Indian Navy (Discipline) Amendment Ordinance Act, 1948.

Received the assent of the Governor-General on the 10th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 10th September 1948.

Act No. LVII of 1948.

An Act to amend the Indian Navy (Discipline) Act, 1934.

WHEREAS it is necessary to amend the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Navy (Discipline) Amendment Act, 1948.

2. *Amendment of section 58, Naval Discipline Act (29 and 30 Vict., c. 109) as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934.*—In regulation 7 of section 58 of the Naval Discipline Act, as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), for the words “the president is a captain”, the words “the president is a substantive or acting commander” shall be substituted.

3. *Repeal of Ordinance V of 1948.*—The Indian Navy (Discipline) Amendment Ordinance, 1948 (V of 1948) is hereby repealed.

The Exchange of Prisoners Act, 1948.

Received the assent of the Governor-General on the 10th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 10th September 1948.

Act No. LVIII of 1948.

An Act to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners, from India to Pakistan and the reception in India of certain prisoners from Pakistan.

WHEREAS an agreement has been reached between the Government of India and the Government of Pakistan for the exchange of certain classes of prisoners between the two countries ;

AND WHEREAS it is necessary to provide in pursuance of the said agreement for the transfer of certain prisoners from India to Pakistan and for the reception in India of certain prisoners from Pakistan ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Exchange of Prisoners Act, 1948.

(2) It extends to the whole of India.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "prison" includes any subsidiary jail, judicial lock-up or, police lock-up, and any place used for the custody of persons who are ordered to be detained under any law for the time being in force ;

(b) "prisoner" means any person committed to custody in a prison on or before the 1st day of August, 1948 under the writ, warrant or order of any Court or authority other than a civil Court or Court-martial ;

(c) "the Provincial Government", in relation to any Acceding State, means the Government of that State ;

(d) "transferable prisoner" means—

(i) in the Province of East Punjab, any prisoner who, being a Muslim, is willing to be transferred to Pakistan under the provisions of this Act, and

(ii) in any other part of India, any prisoner of such category as the Central Government may specify by notification in the official Gazette who, being a Muslim, is willing to be transferred to Pakistan under the provisions of this Act.

3. *Issue of warrants for transfer of prisoners.*—The Provincial Government may issue a warrant addressed to the officer in charge of a prison to deliver to the person presenting the warrant any transferable prisoner confined or detained in the prison, together with all the records relating to such prisoner and the personal effects taken from him at the time of his admission into the prison.

4. *Removal and delivery of prisoners.*—Upon the presentation of a warrant issued under section 3, the officer in charge of the prison shall forthwith comply with the warrant and obtain thereon the signature of the person to whom delivery of the prisoner, records and articles is made in pursuance of the warrant ; and that person shall cause the prisoner, records and articles to be removed from the prison and delivered at such place, and to such authorised officer of Pakistan, as the Provincial Government may, by general or special order, specify in this behalf.

5. *Cesser of jurisdiction of Indian Courts and authorities over prisoners.*—Upon the delivery of custody of a prisoner to an officer of Pakistan in accordance with the provisions of section 4, all Courts and authorities in India shall, save as otherwise provided in section 8 or for the purposes of that section, cease to have or exercise, in relation to the prisoner, any jurisdiction in respect of the offence or other matter which was the cause of his confinement or detention in the prison.

6. *Lawfulness of custody and retaking upon escape.*—It shall be lawful for any officer of Pakistan to whom the custody of a prisoner is delivered under the provisions of section 4 to receive and hold in custody such prisoner and to convey him out of India, and if the prisoner escapes from such custody within India he may be retaken as a person accused of an offence may be retaken upon an escape.

7. *Transfer of records relating to transferable prisoners.*—Where a prisoner is or is to be transferred to Pakistan under the provisions of this Act, the Provincial Government may requisition the record of any proceedings, including judicial proceedings, relating to that prisoner from any Court or office, and may direct that such record shall be sent to the Government of Pakistan or the Government of any Province in Pakistan.

8. *Prohibition of return to India of transferred prisoners.*—(1) No person who has been transferred to Pakistan under the provisions of this Act shall return to India except with the permission in writing of the Central Government.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years, and if, at the time of his transfer to Pakistan, he was undergoing a sentence of imprisonment in India, he shall further be sentenced to undergo the unexpired portion of such sentence without taking into account any period for which he may have been detained or confined in Pakistan after the transfer.

(3) If at the time of his transfer to Pakistan, the person contravening the provisions of sub-section (1) was undergoing trial in any Court in India for any offence, he shall, without prejudice to the provisions of sub-section (2), be liable to be tried for such offence by the same or any other Court having jurisdiction :

Provided that if such person has, before his return to India, been tried for the offence by a Court of competent jurisdiction in Pakistan and convicted or acquitted of the offence, he shall not be liable to be tried again for the same offence by any Court in India.

9. *Reception in India of prisoners transferred from Pakistan.*—(1) The Central Government may, by general or special order, specify the place or places at which, and the officer or officers to whom, the custody of prisoners confined or detained in Pakistan is to be delivered in pursuance of the agreement reached in this behalf between the Government of India and the Government of Pakistan.

(2) It shall be lawful for any such officer as aforesaid to receive and hold in custody any prisoner so delivered and convey such prisoner to any prison in a Province of India for being dealt with in accordance with law ; and if the prisoner escapes from such custody he may be retaken as a person accused of an offence against an Indian law may be retaken upon an escape.

10. *Repeal of Ordinance VI of 1948.*—(1) The Exchange of Prisoners Ordinance, 1948 (VI of 1948) is hereby repealed.

(2) The repeal by this Act of the said Ordinance shall not affect the previous operation thereof, and any order made, action taken, or thing done, in the exercise of any powers conferred by or under the said Ordinance shall for all purposes be deemed to have been made, taken or done in the exercise of powers conferred by this Act as if this Act had commenced on the 20th day of April, 1948.

The Indian Cotton Cess (Amendment) Act, 1948.

Received the assent of the Governor-General on the 10th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 10th September 1948.

Act No. LIX of 1948.

An Act further to amend the Indian Cotton Cess Act, 1923.

WHEREAS it is expedient further to amend the Indian Cotton Cess Act, 1923 (XIV of 1923), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Cotton Cess (Amendment) Act, 1948.

2. *Amendment of section 3, Act XIV of 1923.*—In sub-section (1) of section 3 of the Indian Cotton Cess Act, 1923 (XIV of 1923) (hereinafter referred to as the said Act), for the words “two annas” and “six pies” the words “four annas” and “one anna” shall be substituted respectively.

3. *Amendment of section 4, Act XIV of 1923.*—In section 4 of the said Act,—

(a) for items (viii), (ix) and (x) the following items shall be substituted, namely :—

“(viii) nine persons nominated by the Central Government to represent the cotton growing industry, of whom two shall be nominated to represent the industry in Madras, two to represent the industry in Bombay, two to represent the industry in the United Provinces, two to represent the industry in the Central Provinces and the Berar, and one to represent the industry in East Punjab ;

(ix) seven persons nominated respectively by the Governments of the following Acceding States, namely, Mysore, the United State of Gwalior, Indore and Malwa (Madhya-Bharat), the United State of Rajasthan, the United State of Vindhya Pradesh, the Patiala and East Punjab States Union, the United State of Kathiawar (Saurashtra) and Baroda ; and” ; and

(b) item (xi) shall be renumbered as item (x).

4. *Amendment of section 12, Act XIV of 1923.*—In sub-section (2) of section 12 of the said Act, after the words “in India”, the words “or for the improvement and development of the methods of growing, manufacturing and marketing of Indian cotton” shall be inserted.

5. *Repeal of section 12A, Act XIV of 1923.*—Section 12A of the said Act shall be omitted.

The Resettlement of Displaced Persons (Land Acquisition) Act, 1948.

Received the assent of the Governor-General on the 20th September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 20th September 1948.

Act No. LX of 1948.

An Act to provide for the speedy acquisition of land for the resettlement of displaced persons.

WHEREAS it is expedient to provide for the speedy acquisition of land for the resettlement of displaced persons and for matters incidental thereto ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Resettlement of Displaced Persons (Land Acquisition) Act, 1948.

(2) It extends to the Chief Commissioners Provinces of Delhi and Ajmer-Merwara.

2. *Definitions.*—In this Act—

(a) “competent authority” means the Collector and includes any other person appointed by the Provincial Government, by notification in the official Gazette, to perform all or any of the functions of a competent authority under this Act ;

(b) “displaced person” means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area now forming part of Pakistan, has been displaced from or has left his place of residence in such area after the 1st day of March, 1947, and who has subsequently been residing in India ; and

(c) “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

3. *Notice of acquisition of land.*—(1) Whenever it appears to the Provin-

cial Government that it is necessary or expedient to acquire speedily any land for the resettlement of displaced persons, a notification to that effect shall be published in the official Gazette stating the area and the boundaries of the land proposed to be acquired and the date on which such acquisition will be made, and the competent authority shall cause public notice of the substance of such notification to be given at convenient places on or near the land to be acquired.

(2) Nothing in sub-section (1) shall empower the Provincial Government to acquire any land which is being used for the purpose of a School, orphanage or hospital or is being used exclusively for the purpose of religious worship.

4. *Service on owner or occupier affected by notice of acquisition.*—As soon as may be after the publication of the notification under section 3, the competent authority shall cause to be served by registered post on the owner of the land and also on the occupier in cases where the owner is not in occupation of the land or, where the person to be served is not readily traceable or the ownership of the land is in dispute, shall publish in the official Gazette, a notice stating the particulars specified in sub-section (1) of section 3.

5. *Vesting and taking possession of land.*—(1) When a notice of acquisition is served or is published under section 4, the land shall vest absolutely in the Provincial Government free from all encumbrances on the date the notice is so served or published in the official Gazette.

(2) The competent authority may, at any time after the land has become so vested, proceed to take possession thereof;

Provided that such authority shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

6. *Objections to acquisition.*—(1) Any person interested in any land which has become vested in the Provincial Government under section 5 may, within one month from the vesting thereof, file his objection, if any, to the acquisition before the competent authority and such authority may, after making such enquiry as it thinks fit, either dismiss the objection or release the land in respect of which objection has been filed from acquisition.

(2) If any land is released from acquisition under sub-section (1), it shall be deemed to revert in the person originally entitled thereto and any encumbrance, which may have been extinguished under section 5, shall revive.

7. *Method of determining compensation.*—(1) Where any land has been acquired under this Act, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Provincial Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court.

(c) the Provincial Government may, in any particular case, nominate a person having expert knowledge as to the nature and condition of the land

acquired to assist the arbitrator and where such nomination is made the person to be compensated may also nominate an assessor for the said purpose ;

(d) at the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation ;

(e) the arbitrator, in making his award, shall have due regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894) :

Provided that the market value referred to in clause *first* of sub-section (1) of section 23 of the said Act shall be deemed to be the market value of such land on the date of publication of the notice under section 3, or on the first day of September, 1939, with an addition of 40 per cent. whichever is less :

Provided further that where such land has been held by the owner thereof under a purchase made before the first day of April, 1948, but after the first day of September, 1939, by a registered document, or a decree for pre-emption between the aforesaid dates, the compensation shall be the price actually paid by the purchaser or the amount on payment of which he may have acquired the land in the decree for pre-emption, as the case may be.

(2) The arbitrator shall, in awarding any compensation under this section, apportion the amount thereof between such persons, if any, as may appear to him to be entitled thereto.

(3) An appeal shall lie to the High Court from the award of the arbitrator appointed under this Act, and the decision of the High Court shall be final.

(4) Save as provided in this section, nothing in any law for the time being in force shall apply to arbitrations under this section.

8. *Payment of compensation.*—The compensation awarded shall be paid by the competent authority to the person entitled thereto according to the award :

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

9. *Power to secure information.*—The Provincial Government or the competent authority may, with a view to determining the compensation payable under this Act, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to the land that may be so specified.

10. *Disposal of land.*—Subject to such rules as may be made by the Provincial Government, the competent authority may use or deal with any land acquired under the provisions of this Act in such manner and subject to such conditions as may appear to it to be expedient for the purposes of resettling displaced persons :

Provided that no displaced person to whom any land has been allotted under the provisions of this section shall transfer such land to any other person except with the previous consent of the competent authority.

11. *Penalties.*—Whoever wilfully obstructs any person in lawfully taking possession of any land under this Act or refuses to furnish any information as required by section 9 shall be punishable with imprisonment which may extend to one month or with fine which may extend to fifty rupees or with both.

12. *Exemption from stamp duty and fees.*—No award or agreement under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

13. *Protection for action done in good faith.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

14. *Power to make rules.*—(1) The Provincial Government may make rules to carry out the objects of this Act and for the guidance of officers in all matters connected with its enforcement.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the manner in which land acquired under this Act may be used or dealt with ;

(b) the procedure to be followed in arbitrations under this Act ;

(c) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal.

15. *Repeal of Ordinance XX of 1948.*—(1) The Resettlement of Displaced Persons (Land Acquisition) Ordinance, 1948 (XX of 1948) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 2nd day of August, 1948.

The Central Silk Board Act, 1948.

Received the assent of the Governor-General on the 20th September 1948 and is published in the *Gazette of India*, Extraordinary Part IV, dated the 20th September 1948.

Act No. LXI of 1948.

An Act to provide for the development under Central control of the raw silk Industry and for that purpose to establish a Central Silk Board.

WHEREAS it is expedient to provide for the development under Central control of the raw silk industry and for that purpose to establish a Central Silk Board ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Central Silk Board Act, 1948.

(2) It extends to all the Provinces of India, and also to any Acceding State for which the Dominion Legislature has for the time being power to make laws as respects the development of the raw silk industry.

2. *Declaration as to expediency of Central Government's control.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the raw silk industry.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Board" means the Central Silk Board constituted under this Act ;

(b) "charkha raw silk" means raw silk reeled from silk worm cocoons with the help of any instrument not worked by power ;

(c) "filature raw silk" means raw silk reeled from silk worm cocoons

with the help of any instrument worked by power ;

(d) "power" means any form of energy which is mechanically transmitted and is not generated by human or animal agency, and includes electrical energy ;

(e) "prescribed" means prescribed by rules made under this Act ;

(f) "spun silk" means silk yarn spun from pierced or spoilt cocoons, fluff from cocoons, pieces of silk, nails, or other silk waste ;

(g) "Standing Committee" means the Standing Committee of the Board constituted under sub-section (2) of section 6.

4. *Constitution of the Board.*—(1) As soon as may be after the commencement of this Act, the Central Government shall, by notification in the official Gazette, constitute for the purposes of this Act a Board to be called the Central Silk Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of the following members, namely :—

(a) the Minister in charge of Industry and Supply in the Central Government, who shall *ex-officio* be Chairman of the Board ;

(b) not more than three officials to be nominated by the Central Government ;

(c) two persons elected by the members of the Central Legislature, from among themselves, in such manner as may be prescribed ;

(d) four persons to be nominated by the Government of Mysore, of whom one shall be a representative of the filature raw silk industry and two shall be representatives of the rest of the sericulture industry ;

(e) two persons to be nominated by the Government of Madras, of whom at least one shall be a non-official ;

(f) two persons to be nominated by the Government of West Bengal, of whom at least one shall be non-official ;

(g) one person to be nominated by the Government of Jammu and Kashmir ;

(h) one person to be nominated by each of the Governments of Assam ; the Central Provinces and Berar, the United Provinces, Bombay, and Bihar ;

(i) not more than three persons to be nominated by the Central Government to represent (i) producers of raw silk, and (ii) areas other than the Provinces and States specified in clauses (d) to (h) ;

(j) five persons to be nominated by the Central Government, of whom one shall be a representative of the spun silk industry, one of the silk throwing and twisting industry, and one of the silk weaving industry, and two shall be sericultural experts.

(4) The members of the Board shall receive from its funds such travelling and other allowances as may be prescribed.

5. *Power of the Central Government in default of nominations.*—(1) If any Government other than the Central Government fails to make any nomination which it is entitled to make under sub-section (3) of section 4 within the time prescribed in that behalf, the Central Government may make the nomination itself.

(2) Where a member of the Board dies, resigns, is removed, ceases to reside in India, or becomes incapable of acting, the authority or body entitled to nominate the member under sub-section (3) of section 4 may nominate a person to fill the vacancy ; and where such nomination is not

made within the time prescribed in that behalf, the Central Government on its own initiative may make the nomination itself.

(3). No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.

6. *Vice-Chairman and Standing Committee.*—(1) The Board shall elect from among its members a Vice-Chairman who shall exercise such of the powers and perform such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(2) The Board may, in its discretion, constitute a standing Committee for the purpose of exercising such of its powers and performing such of its duties as may be delegated by it, not being powers or duties the delegation of which is prohibited by rules made under this Act.

(3) The Standing Committee shall, consist of the Chairman, the Vice-Chairman, and five others elected by the Board from among its members.

7. *Secretary of the Board.*—The Central Government shall, in consultation with the Board, appoint a Secretary to the Board who shall under the control and direction of the Board, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the Chairman.

8. *Functions of the Board.*—(1) It shall be the duty of the Board to promote the development of the raw silk industry by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for—

(a) undertaking, assisting or encouraging scientific, technological and economic research ;

(b) devising means for improved methods of mulberry cultivation rearing, developing and distributing healthy silkworm seeds, reeling of silkworm cocoons, improving the quality and production of raw silk, if necessary, by making it compulsory for all raw silk to be marketed only after the same has been tested and graded in properly equipped raw silk conditioning houses ;

(c) the supply of technical advice to filature and *charkha* reellers ;

(d) improving the marketing of raw silk ;

(e) the collection of statistics from such persons as may be prescribed ;

(3) It shall also be the duty of the Board—

(a) to advise the Central Government on all matters relating to the development of the raw silk industry, including the import and export of raw silk ;

(b) to submit to the Central Government and such other authorities as may be prescribed half-yearly reports on its activities and the working of this Act ;

(c) to prepare and furnish such other reports relating to the raw silk industry as may be required by the Central Government from time to time.

9. *Funds of the Board.*—(1) The Central Government shall from time to time make grants to the Board of such sums as the Central Government may consider necessary for enabling the Board to exercise its powers and discharge its duties under this Act.

(2) The funds of the Board shall be kept in such bank, or invested in such manner, as may be prescribed, and shall be expended by the Board only in the performance of its functions under this Act or for meeting such expenses as are authorised by this Act or by rules made thereunder.

10. *Imposition of cess on certain kinds of silk.*—(1) With effect from such date as the Central Government may, by notification in the official Gazette appoint, there shall be levied and collected as a cess for the purposes of this Act a duty of excise on all filature raw silk, and on all spun silk, reeled in the territories to which this Act for the time being extends at such rate as the Central Government may, by notification in the official Gazette from time to time fix.

(2) The said duty of excise shall be payable by the reelers of filature raw silk or spun silk and shall be paid by them to the Board within one month from the date of the receipt of the notice of demand from the Board in that behalf.

(3) The said duty of excise may be recovered as if it were an arrear of land revenue.

(4) For the purpose of enabling the Board to assess the amount of the duty of excise payable under this section by the reelers of filature raw silk or spun silk,—

(a) the Board shall, by notification in the official Gazette, fix the period in respect of which assessments shall be made, and

(b) every reeler of filature raw silk or spun silk shall furnish to the Board within the prescribed time a return specifying the total amount of filature raw silk or spun silk reeled during such period.

(5) If any reeler of filature raw silk or spun silk fails to furnish such return within the prescribed time or furnishes a return which the Board has reason to believe to be incorrect or defective, the Board may assess the amount payable by such reeler in such manner as may be prescribed.

(6) Any reeler feeling himself aggrieved by an assessment made under this section may, within three months of the receipt of the notice under sub-section (2), apply to the District Judge or such other civil judicial officer as may be prescribed, for the cancellation or modification of the assessment; and such District Judge or judicial officer shall, after giving the Board an opportunity of being heard, pass such order as he thinks proper; and such order shall be final.

11. *Control by the Central Government.*—(1) All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken, or order passed, by the Board.

(2) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

12. *Accounts of the Board.*—The Board shall keep such accounts, and in such manner and form, as may be prescribed, in respect of all moneys received and expended by it.

(2) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have the power to disallow any item of expenditure which in their opinion has not been properly incurred for the purposes of this Act.

(3) The Central Government may, on the application of the Board, allow any item of expenditure disallowed by the auditors under sub-section (2).

13. *Power of Central Government to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure to be followed at meetings of the Board or Standing Committee ;

(b) the election of [the Vice-Chairman of the Board ; and the delegation to the Standing Committee, to the Vice-Chairman, or to members or officers of the Board, of any of the powers and duties of the Board under this Act ;

(c) the staff to be employed by the Board ;

(d) the pay, allowances, leave and other conditions of service of officers and servants of the Board ;

(e) the travelling and other allowances of the members of the Board ;

(f) the establishment and maintenance of offices by the Board ;

(g) the term of office of members of the Board, and the circumstances in which, and the authority by which, they may be removed ;

(h) the quorum at meetings of the Board or Standing Committee ;

(i) the maintenance by the Board or Standing Committee of records of its business and the submission of copies thereof to the Central Government ;

(j) the purposes for which the funds of the Board may be expended ;

(k) the maintenance of the accounts of the income and expenditure of the Board and the audit of such accounts ;

(l) the preparation of annual estimates of the income and expenditure of the Board ;

(m) the deposit of the funds of the Board in banks and the investment of such funds ;

(n) the registers, and other records to be maintained by the Board or Standing Committee ;

(o) the manner in which raw silk shall be graded and marketed ;

(p) any other matter which is to be or may be prescribed under this Act.

14. Penalties.—If any person—

(a) in any return to be furnished under this Act makes any statement which is false and which he knows to be false or does not believe to be true, or

(b) obstructs any officer of the Board in the exercise of any power conferred, or the discharge of any duty imposed, on him by or under this Act, or

(c) having the control or custody of any account book or other record, fails to produce such book or record when required so to do under this Act, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

15. Prosecution to be with consent of Central Government.—No prosecution for any offence punishable under this Act shall be instituted except by, or with the consent of, the Central Government.

16. Bar of legal proceedings.—No suit, prosecution or other legal proceeding shall lie against the Board, or any member or officer of the Board, for anything in good faith done or intended to be done under this Act.

17. Temporary powers of the Central Government.—Until such time as the Board is constituted under section 4, the Central Government may, notwithstanding anything contained in this Act, exercise any of the powers, conferred or discharge any of the duties imposed, by this Act upon the Board.

The Reserve Bank (Transfer to Public Ownership) Act, 1948.

Received the assent of the Governor-General on the 23rd September, 1948, and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 23rd September 1948.

Act No. LXII of 1948.

An Act to bring the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in the Reserve Bank of India Act, 1934.

WHEREAS it is expedient to bring the share capital of the Reserve Bank of India into public ownership, to make provisions with respect to the relations between the Central Government and the Bank and to make consequential amendments in the Reserve Bank of India Act, 1934 (II of 1934) ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Reserve Bank (Transfer to Public Ownership) Act, 1948.

2. *Definitions.*—In this Act,—

(a) “appointed day” means such day as the Central Government may, by notification in the official Gazette, appoint ;

(b) “Bank” means the Reserve Bank of India as constituted by the principal Act ; and

(c) “principal Act” means the Reserve Bank of India Act, 1934 (II of 1934).

3. *Transfer of bank shares.*—(1) On the appointed day—

(a) all shares in the capital of the Bank shall by virtue of this Act be deemed to be transferred free of all trusts, liabilities and encumbrances to the Central Government ; and

(b) as full compensation therefor, the Central Government shall issue to every person who, immediately before the appointed day, is registered as the holder of any such shares, an amount calculated at the rate of one hundred and eighteen rupees and ten annas per share, in promissory notes of the Central Government bearing interest at the rate of three per centum per annum repayable at par on such date as may be specified in this behalf by the Central Government ;

Provided that where the amount so calculated is not an exact multiple of one hundred rupees the amount in excess of the nearest lower multiple of one hundred rupees shall be paid by cheque drawn on the Bank :

Provided further that in respect of any share obtained at par from the Central Government by any Director of the Bank in pursuance of subsection (8) of section 4 of the principal Act as in force immediately before the appointed day, the said amount shall be calculated at the rate of one hundred rupees per share.

(2) Notwithstanding the transfer of shares effected by this section any shareholder who, immediately before the appointed day, is entitled to payment of dividends on the shares held by him shall be entitled to receive from the Bank—

(a) all dividends accruing due on his shares in respect of the year ending on the 30th day of June, 1948, or any preceding year remaining unpaid on the appointed day ;

(b) dividends calculated at the rate of four rupees per annum per share in respect of the period from the 1st day of July, 1948, to the appointed day.

4. *Vacation of office by existing office bearers.*—On the appointed

day any person who immediately before that day was holding office as a Director of the Central Board otherwise than as Governor or Deputy Governor or as a member of a Local Board of the Bank shall vacate his office, and the Central Board and the Local Boards of the Bank shall thereafter be constituted in the manner prescribed by sections 8 and 9 of the principal Act as amended by this Act.

5. *Interim arrangements.*—Pending the constitution of the Central Board under section 8 of the principal Act as amended by this Act, the Governor of the Bank, or in his absence a Deputy Governor of the Bank duly nominated by him in this behalf, may, subject to such restrictions and conditions as may from time to time be imposed by the Central Government exercise all powers, and do all acts and things which may be exercised or done by the Bank.

6. *Rule-making power.*—(1) The Central Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

(a) for the manner in which and the authority by which compensation shall be paid under section 3; and

(b) for the determination of persons to whom compensation is so payable.

7. *Amendments to Act II of 1934.*—As from the appointed day, the Reserve Bank of India Act, 1934 (II of 1934), shall be amended in the manner directed in the Schedule to this Act.

THE SCHEDULE

(See section 7)

Amendments to the Reserve Bank of India Act, 1934.

Section 2.—In clause (d), omit “silver”.

Chapter II.—In the heading for “SHARE CAPITAL” substitute “CAPITAL”.

For section 4 substitute the following, namely:—

“4. *Capital of the Bank.*—The capital of the Bank shall be five crores of rupees”.

Omit section 5.

For section 7 substitute the following, namely:—

“7. *Management.*—(1) The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest.

(2) Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank.

(3) Save as otherwise provided in regulations made by the Central Board, the Governor shall have full powers to transact all the business of the Bank which may be transacted by the Central Board.”

Section 8.—

(i) for sub-section (1) substitute the following, namely:—

“(1) The Central Board shall consist of the following directors, namely:—

(a) a Governor and two Deputy Governors to be appointed by the Central Government;

(b) four Directors to be nominated by the Central Government, one from each of the four Local Boards as constituted by section 9;

(c) six Directors to be nominated by the Central Government ; and
(d) one Government official to be nominated by the Central Government ” ;

(ii) for the second paragraph of sub-section (4) substitute the following, namely :—

“A Director nominated under clause (c) of sub-section (1) shall, subject to the provisions of sub-section (6), hold office for a period of four years.”;

(iii) after sub-section (5), the following sub-sections shall be added, namely :—

“(6) Out of the six Directors first nominated under clause (c) of sub-section (1), two shall retire at the end of one year, two at the end of two years and the last two at the end of three years, the Directors so to retire being determined by lot.

(7) A retiring Director shall be eligible for re-nomination”.

For section 9 substitute the following, namely :—

“9. *Local Boards, their constitution and functions.*—(1) A Local Board shall be constituted for each of the four areas specified in the First Schedule and shall consist of five members to be appointed by the Central Government to represent, as far as possible, territorial and economic interests and the interests of co-operative and indigenous banks.

(2) The members of the Local Board shall elect from amongst themselves one person to be the chairman of the Board.

(3) The members of the Local Board shall hold office for a term of four years and shall be eligible for re-appointment.

(4) A Local Board shall advise the Central Board on such matters as may be generally or specifically referred to it and shall perform such duties as the Central Board may delegate to it.”

Section 11.—

(i) in sub-section (1) for “nominated or elected”, substitute “other” and omit the proviso ;

(ii) for sub-section (2) substitute the following, namely:—

“(2) A Director nominated under clause (b) or clause (c) of sub-section (1) of section 8 shall cease to hold office if without leave from the Central Board he absents himself from three consecutive meetings of the Board convened under sub-section (1) of section 13.”;

(iii) in sub-section (5) the words “appointment” and “or election” in two places shall be omitted.

Section 12. —

(i) omit sub-section (2) ;

(ii) in sub-section (3), omit the words “otherwise than by the occurrence of a vacancy in the office of a Director elected by the Local Board”, and the word “qualified”, and for the word “elected” substitute the word “other”;

(iii) in sub-section (4), for the words commencing with “in the case of a nominated Director” and ending with the words “for the election of members of a Local Board” substitute the words “by the Central Government” ;

(iv) in sub-section (5), omit “or elected” and “subject to the proviso contained in sub-section (4).”

Omit sections 14, 15 and 16.

In clause (3) of section 17,—

(i) in sub-clause (a), for the word “sterling” substitute the words “foreign exchange”;

(ii) in sub-clause (b), for the words "the United Kingdom" substitute the words "any country outside India which is a member of the International Monetary Fund";

(iii) omit sub-clause (c).

Section 18.—

(i) in the first paragraph, omit the words "or, where the powers and functions of the Central Board under this section have been delegated to a committee of the Central Board or to the Governor, in the opinion of such Committee or of the Governor, as the case may be,";

(ii) in clause (2) for the word "sterling" substitute the words "foreign exchange"; and

(iii) omit the proviso.

Section 24.—After the words "denominational values of" insert the words "two rupees,".

Section 33.—

(i) In sub-sections (1) and (2), for the words "sterling securities" substitute the words "foreign securities";

(ii) for sub-section (6), substitute the following, namely :—

"(6) For the purposes of this section, the foreign securities which may be held as part of the assets shall be securities of the following kinds payable in the currency of any foreign country which is a member of the International Monetary Fund, namely :—

(a) balances at the credit of the Issue Department with the bank which is the principal currency authority of that foreign country, or, if there is no such bank, with any bank incorporated in that foreign country ;

(b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in that foreign country and having a maturity not exceeding ninety days ; and

(c) Government securities of that foreign country maturing within five years".

Omit section 35.

Section 39.—In sub-section (2) for the word "five" substitute the word "two".

For section 47, substitute the following, namely :—

"47. *Allocation of surplus profits.*—After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and such other contingencies as are usually provided for by bankers, the balance of the profits shall be paid to the Central Government."

Section 48.—Omit the proviso to sub-section (1) and omit sub-section (2).

For section 50 substitute the following, namely :—

"50. *Auditors.*—(1) Not less than two auditors shall be appointed, and their remuneration fixed, by the Central Government.

(2) The auditors shall hold office for such term not exceeding one year as the Central Government may fix while appointing them, and shall be eligible for "re-appointment".

Section 51.—Omit the words "or such auditors as it thinks fit".

Section 52.—In sub-section (2), omit the words "to the shareholders or", "as the case may be" and "Any such report made to the shareholders shall be read, together with the report of the Central Board, at the annual general meeting".

Section 53.—Omit sub-section (3).

Omit sections 55 and 56.

Section 57.—Omit sub-section (2).

Section 58.—In sub-section (2), omit clauses (a) to (e) inclusive.

For the First Schedule substitute the following, namely :—

“THE FIRST SCHEDULE.

(See section 9)

1. THE WESTERN AREA shall consist of the Province of Bombay, the Central Provinces and Berar, Hyderabad, Baroda, Kutch, the United State of Kathiawar (Saurashtra), Kolhapur, the United State of Gwalior, Indore and Malwa (Madhya Bharat), Bhopal, the Acceding States administered by the Government of Bombay and the Acceding States administered by the Government of the Central Provinces and Berar.

2. THE EASTERN AREA shall consist of West Bengal, Bihar, Orissa, Assam, the Andaman and Nicobar Islands, Manipur, Cooch Behar, Tripura, Mayurbhanj, the United State of Vindhya Pradesh, the Khasi States, the Acceding States administered by the Government of Bihar and the Acceding States administered by the Government of Orissa.

3. THE NORTHERN AREA shall consist of the United Provinces, East Punjab, Delhi, Ajmer-Merwara, Panth Piploda, Kashmir, Himachal Pradesh, Patiala and the East Punjab States Union, Bilaspur, Tehri-Garhwal, Rampur, Banaras, the United State of Rajasthan, the United State of Matsay, Jaisalmer, Jodhpur, Bikaner, Jaipur, and the Acceding States administered by the Government of East Punjab.

4. THE SOUTHERN AREA shall consist of the Province of Madras, Coorg, Mysore, Cochin, Travancore, Sandur and the Acceding States administered by the Government of Madras.”

Omit the Fourth Schedule.

The Factories Act, 1948.

Received the assent of the Governor-General on the 23rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 23rd September 1948.

Act No. LXIII of 1948.

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories ;

It is hereby enacted, as follows :—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Factories Act, 1948.

(2) It extends to all the Provinces of India and shall extend to such Acceding States as, by their Instruments of Accession, have accepted the subject matter of this Act as a matter with respect to which the Dominion Legislature may make laws for such States.

(3) It shall come into force on the 1st day of April 1949.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “adult” means a person who has completed his eighteenth year of age ;

(b) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year ;

(c) “child” means a person who has not completed his fifteenth year of age ;

(d) "young person" means a person who is either a child or an adolescent;

(e) "day" means a period of twenty-four hours beginning at midnight;

(f) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;

(g) "power" means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(h) "prime mover" means any engine, motor or other appliance which generates or otherwise provides power;

(i) "transmission machinery" means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;

(j) "machinery" includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;

(k) "manufacturing process" means any process for—

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) pumping oil, water or sewage, or

(iii) generating, transforming or transmitting power; or

(iv) printing by letterpress, lithography, photogravure or other similar work or book-binding, which is carried on by way of trade or for purposes of gain, or incidentally to another business so carried on;

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;

(l) "worker" means a person employed, directly or through any agency, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process;

(m) "factory" means any premises including the precincts thereof—

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—

but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923), or a railway running shed;

(n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory, and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(o) "managing agent" has the meaning assigned to it in the Indian Companies Act, 1913 (VII of 1913);

(p) "prescribed" means prescribed by rules made by the Provincial Government under this Act ;

(q) "Provincial Government" includes the Government of an Acceding State to which this Act applies and all references to a province shall be construed as references also to an Acceding State ;

(r) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay" and each of such periods is called a "shift".

3. *References to time of day.*—In this Act references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time :

Provided that for any area in which Indian Standard Time is not ordinarily observed the Provincial Government may make rules—

- (a) specifying the area,
- (b) defining the local mean time ordinarily observed therein, and
- (c) permitting such time to be observed in all or any of the factories situated in the area.

4. *Power to declare departments to be separate factories.*—The Provincial Government may, by order in writing, direct that different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

5. *Power to exempt during public emergency.*—In any case of public emergency the Provincial Government may, by notification in the official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act for such period and subject to such conditions as it may think fit :

Provided that no such notification shall be made for a period exceeding three months at a time.

6. *Approval, licensing and registration of factories.*—(1) The Provincial Government may make rules—

(a) requiring the previous permission in writing of the Provincial Government or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories ;

(b) requiring for the purpose of considering applications for such permission the submission of plans and specifications ;

(c) prescribing the nature of such plans and specifications and by whom they shall be certified ;

(d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licensing ;

(e) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.

(2) If on an application for permission referred to in clause (a) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the Provincial Government or Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

(3) Where a Provincial Government or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration and licensing of a factory, the applicant may within thirty days

of the date of such refusal appeal to the Central Government if the decision appealed from was of the Provincial Government and to the Provincial Government in any other case.

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed of the addition of any plant or machinery.

7. *Notice by occupier.*—(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—

(a) the name and situation of the factory ;
(b) the name and address of the occupier ;
(c) the address to which communications relating to the factory may be sent ;

(d) the nature of the manufacturing process—

(i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and

(ii) to be carried on in the factory during the next twelve months in the case of all factories ;

(e) the nature and quantity of power to be used ;

(f) the name of the manager of the factory for the purposes of this Act ;

(g) the number of workers likely to be employed in the factory,

(h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act ;

(i) such other particulars as may be prescribed.

(2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days from the date of the commencement of this Act.

(3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified sub-section (1) within thirty days before the date of the commencement of work.

(4) Whenever a new manager is appointed, the occupier shall send to the Chief Inspector a written notice within seven days from the date on which such person takes over charge.

(5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

CHAPTER II

THE INSPECTING STAFF

8. *Inspectors.*—(1) The Provincial Government may, by notification in the Official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The Provincial Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act exercise the powers of an Inspector throughout the Province.

(3) No person shall be appointed under sub-section (1), sub-section (2) or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The Provincial Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one, the Provincial Government may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the Provincial Government may specify in this behalf.

9. *Powers of Inspectors.*—Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistants, being persons in the service of the Government, or any local or other public authority, as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;

(b) make examination of the premises, plant and machinery, require the production of any prescribed register and any other document relating to the factory, and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act.

(c) exercise such other powers as may be prescribed for carrying out the purposes of this Act :

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

10. *Certifying surgeons.*—(1) The Provincial Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the Provincial Government, authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the Provincial Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery, connected therewith or is otherwise in the employ of the factory.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of young persons under this Act ;

(b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed ;

(c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein ;

(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process ;

(iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

Explanation.—In this section “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

CHAPTER III

HEALTH

11. *Cleanliness.*—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular—

(a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner ;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method ;

(c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained ;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—

(i) where they are painted or varnished, be repainted or revarnished at least once in every period of five years ;

(ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed ;

(iii) in any other case, be kept whitewashed or colourwashed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months ;

(e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory, it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the Provincial Government may by order exempt such factory or class or description of factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

12. *Disposal of wastes and effluents.*—(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The Provincial Government may make rules prescribing the

arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

13. *Ventilation and temperature*—(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom—

(a) adequate ventilation by the circulation of fresh air, and
(b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health ;—
and in particular,—

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable ;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The Provincial Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the Provincial Government that in any factory or class or description of factories excessively high temperatures can be reduced by such methods as whitewashing, spraying or insulating and screening outside wall or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air-space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of these or other methods as shall be adopted in the factory.

14. *Dust and fume*—(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

15. *Artificial humidification*—(1) In respect of all factories in which the humidity of the air is artificially increased, the Provincial Government may make rules,—

(a) prescribing standards of humidification ;
(b) regulating the methods used for artificially increasing the humidity of the air ;

(c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded ;

(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before specified date.

16. Overcrowding.—(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory in existence on the date of the commencement of this Act at least three hundred and fifty cubic feet and of a factory built after the commencement of this Act at least five hundred cubic feet of space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may by order in writing exempt subject to such conditions, if any, as he may think fit to impose, any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

17. Lighting.—(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of—

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eyestrain or the risk of accident to any worker.

(4) The Provincial Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

18. Drinking water.—(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within twenty feet of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the Provincial Government may make rules for securing compliance with the provisions of sub-sections (1), (2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

19 Latrines and urinals.—(1) In every factory—

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;

(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed—

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, up to a height of three feet, of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;

(c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The Provincial Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

20. Spittoons.—(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The Provincial Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

CHAPTER IV.

SAFETY

21. *Fencing of Machinery*—(1) In every factory the following, namely,—

(i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not ;

(ii) the headrace and tailrace of every water-wheel and water turbine ;

(iii) any part of a stock-bar which projects beyond the head stock of a lathe ; and

(iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely,—

(a) every part of an electric generator, a motor or rotary convertor ;

(b) every part of transmission machinery ; and

(c) every dangerous part of any other machinery,

shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery they are fencing are in motion or in use :

Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when, it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of section 22.

(2) The Provincial Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

22. *Work on or near machinery in motion*—(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 21 while the machinery is in motion, or as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt ;

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of machinery while that part is in motion, or to work between moving parts, or between fixed and moving parts, of any machinery which is in motion.

(3) The Provincial Government may, by notification in the Official

Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

23. *Employment of young persons on dangerous machines*—(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the Provincial Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

24. *Striking gear and devices for cutting off power*—(1) In every factory—

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley ;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room :

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to work-rooms in which electricity is used as power.

25. *Self-acting machines*—No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine ;

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

26. *Casing of new machinery*—(1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger ;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1), shall be punishable with imprisonment for a term which

may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) The Provincial Government may make rules applying the provisions of this section to any particular machine or class or description of machines and specifying the types of safeguards to be provided thereon.

27. Prohibition of employment of women and children near cotton-openers.—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery-end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

28. Hoists and lifts.—(1) In every factory—

(a) every hoist and lift shall be—

(i) of good mechanical construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing,

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely:—

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The Provincial Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

29. Cranes and other lifting machinery.—(1) The following provisions shall apply in respect of cranes and all other lifting machinery (other than hoists and lifts) in any factory, namely :—

(a) every part thereof, including the working gear, whether fixed or moveable, ropes and chains and anchoring and fixing appliances shall be—

(i) of good construction, sound material and adequate strength ;—

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination ;

(b) no such machinery shall be loaded beyond the safe working load which shall be plainly inscribed thereon ;

(c) while any person is employed or working on or near the wheel-track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The Provincial Government may make rules in respect of any lifting machinery or class or description of lifting machinery in factories—

(a) prescribing requirements to be complied with in addition to those set out in this section ;

(b) exempting from compliance with all or any of the requirements of this section, where in its opinion such compliance is unnecessary or impracticable.

30. Revolving machinery.—(1) In every room in a factory in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

31. Pressure plant.—(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The Provincial Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

32. Floors, stairs, and means of access.—In every factory—

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained, and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails ;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

33 *Pits, sumps, openings in floors, etc.*—In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The Provincial Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

34. *Excessive weights*—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The Provincial Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

35. *Protection of eyes*—In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light,—
the Provincial Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

36. *Precautions against dangerous fumes*—(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1), and where the fumes present are likely to be inflammable, no lamp or light other than of flame-proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or

(b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall in every factory be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any factory any boiler

furnace, boiler flue, chamber tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The Provincial Government may make rules prescribing the minimum dimensions of the manholes referred to in sub-section (1), and may by order in writing exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

37. Explosive or inflammable dust, gas, etc.—(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

- (a) effective enclosure of the plant or machinery used in the process,
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour ;

(c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents, or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely :—

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means ;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure ;

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced :

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Provincial Government may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

38. Precautions in case of fire—(1) Every factory shall be provided with such means of escape in case of fire as may be prescribed, and if it

appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing specifying the measures which, in his opinion should be adopted to bring the factory into conformity with the provisions of this section and any rules made thereunder, and requiring them to be carried out before a date specified in the order.

(2) In every factory the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from the inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards.

(3) In every factory, every window, door or other exit affording a means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(4) There shall be provided in every factory effective and clearly audible means of giving warning in case of fire to every person employed in the factory.

(5) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of a factory.

(6) Effective measures shall be taken to ensure that in every factory—

(a) wherein more than twenty workers are ordinarily employed in any place above the ground floor, or

(b) wherein explosive or highly inflammable materials are used or stored, all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(7) The Provincial Government may make rules prescribing, in respect of any factory or class or description of factories, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

39. Power to require specifications of defective parts or tests of stability— If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, way, machinery or plant can be used with safety, or

(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

40. Safety of buildings and machinery—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date,

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

41. *Power to make rules to supplement this Chapter*—The Provincial Government may make rules requiring the provision in any factory or in any class or description of factories of such further devices for securing the safety of persons employed therein as it may deem necessary.

CHAPTER V

WELFARE

42. *Washing facilities*—(1) In every factory—

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein ;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers ;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The Provincial Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

43. *Facilities for storing and drying clothing*—The Provincial Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

44. *Facilities for sitting*—(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief-Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The Provincial Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

45. *First-aid appliances*—(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed in the factory.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1), and all such boxes and cupboards shall be kept in the charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the factory.

(3) In every factory wherein more than five hundred workers are employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

46. *Canteens*—(1) The Provincial Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which such canteen shall be provided ;
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen ;
- (c) the foodstuffs to be served therein and the charges which may be made therefor ;
- (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen ;
- (e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

47. *Shelters, rest rooms and lunch rooms.*—(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers :

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section :

Provided further that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The Provincial Government may—

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section ;

(b) by notification in the official Gazette, exempt any factory or class or description of factories from the requirements of this section.

48. *Creches.*—(1) In every factory wherein more than fifty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The Provincial Government may make rules—

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section ;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing ;

(c) requiring the provision in any factory of free milk or refreshment of both for such children ;

(d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

49. *Welfare officers.*—(1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.

(2) The Provincial Government may prescribe the duties, qualifica-

tions and conditions of service of officers employed under sub-section (1).

50. Power to make rules to supplement this Chapter.—The Provincial Government may make rules—

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter ;

(b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements of the workers.

CHAPTER VI

WORKING HOURS OF ADULTS.

51. Weekly hours.—No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

52. Weekly holidays.—(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless—

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and

(b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,—

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory ;

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

53. Compensatory holidays.—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

54. Daily hours.—Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day.

55. Intervals for rest.—The period of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

56. Spreadover—The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day :

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spreadover to twelve hours.

57. Night shifts—Where a worker in a factory works on a shift which extends beyond midnight,—

(a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends ;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

58. Prohibition of overlapping shifts—Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The Provincial Government may, subject to such conditions as may be prescribed, make rules exempting any factory or class or description of factories from the provisions of sub-section (1).

59. Extra wages for overtime—(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) Where any worker in a factory are paid on a piece rate basis, the Provincial Government, in consultation with the employer concerned, and the representatives of the workers shall, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) For the purposes of this section, "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus.

(4) The Provincial Government may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

60. Restriction on double employment—No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

61. Notice of periods of work for adults—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54, 55 and 56.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The Provincial Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

62. Register of adult workers.—(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing—

- (a) the name of each adult worker in the factory ;
- (b) the nature of his work ;
- (c) the group, if any, in which he is included ;
- (d) where his group works on shifts, the relay to which he is allotted ;
- (e) such other particulars as may be prescribed :

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

(2) The Provincial Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

63. Hours of work to correspond with notice under section 61 and register under section 62.—No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

64. Power to make exempting rules.—(1) The Provincial Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, other than the provisions of clause (b) of

sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined.

(2) The Provincial Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed—

(a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56 ;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56 ;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56 ;

(d) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day, from the provisions of sections 51, 52, 54, 55 and 56 ;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 52 ;

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons from the provisions of section 52 ;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55 ;

(h) of workers engaged in engine-rooms or boiler houses or in attending to power-plant or transmission machinery, from the provisions of section 52.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the Provincial Government may deem to be expedient, subject to such conditions as it may prescribe.

(4) In making rules under this section, the Provincial Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime :—

(i) the total number of hours of work in any day shall not exceed ten ;

(ii) the total number of hours of overtime work shall not exceed fifty for any one quarter ;

Explanation.—“Quarter” means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October ;

(iii) the spreadover inclusive of intervals for rest shall not exceed twelve hours in any one day ;

Provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in section 54 may be exceeded in order to facilitate the change of shifts.

(5) Rules made under this section shall remain in force for not more than three years.

65. Power to make exempting orders.—(1) Where the Provincial Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the

provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The Provincial Government or, subject to the control of the Provincial Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 64.

(4) No factory shall be exempted under sub-section (2) for a period or periods exceeding in the aggregate three months in any year.

66. Further restrictions on employment of women.—(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) no woman shall be employed in any factory except between the hours of 6 A. M. and 7 P. M.:

Provided that the Provincial Government may, by notification in the official Gazette, in respect of any class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P. M. and 5 A. M.

(2) The Provincial Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

CHAPTER VII

EMPLOYMENT OF YOUNG PERSONS

67. Prohibition of employment of young children.—No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

68. Non-adult workers to carry tokens.—A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless—

(a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

69. Certificates of fitness.—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year that he has attained the prescribed physical standards and that he is fit for such work;

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year, and is fit for a full days' work in a factory:

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)—

(a) shall be valid only for a period of twelve months from the date thereof;

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

70. Effect of certificate of fitness granted to adolescent.—(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 69, and who while at work in a factory carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapters VI and VIII.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be deemed to be a child for all the purposes of this Act.

71. Working hours for children.—(1) No child shall be employed or permitted to work, in any factory—

(a) for more than four and a half hours in any day;

(b) between the hours of 7 P.M. and 6 A.M.

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers, and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

72. Notice of periods of work for children.—(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

73. Register of child workers.—(1) The manager of every factory in which children are employed shall maintain a register of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing—

- (a) the name of each child worker in the factory,
 - (b) the nature of his work,
 - (c) the group, if any, in which he is included,
 - (d) where his group works on shifts, the relay to which he is allotted,
- and

- (e) the number of his certificate of fitness granted under section 69.

(2) The Provincial Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

74. Hours of work to correspond with notice under section 72 and register under section 73.—No child shall be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory.

75. Power to require medical examination.—Where an Inspector is of opinion—

- (a) that any person working in a factory without a certificate of fitness is a young person, or

- (a) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,—

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

76. Power to make rules.—The Provincial Government may make rules—

- (a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates ;

- (b) prescribing the physical standards to be attained by children and adolescents working in factories ;

(c) regulating the procedure of certifying surgeons under this Chapter ;
(d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

77. Certain other provisions of law not barred—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (XXVI of 1938).

CHAPTER VIII

LEAVE WITH WAGES

78. Application of Chapter—(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service :

Provided that where such award, agreement or contract of service provides for a longer leave with wages than provided in this Chapter the worker shall be entitled only to such longer leave.

Explanation—For the purpose of this Chapter leave shall not, except as provided in section 79, include weekly holidays or holidays for festivals or other similar occasions.

(2) The provisions of this Chapter shall not apply to any workshop of a Federal Railway.

79. Annual leave with wages—(1) Every worker who has completed a period of twelve months continuous service in a factory shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated at the rate of—

(i) if an adult, one day for every twenty days of work performed by him during the previous period of twelve months subject to a minimum of ten days ; and

(ii) if a child, one day for every fifteen days of work performed by him during the previous period of twelve months subject to a minimum of fourteen days :

Provided that a period of leave shall be inclusive of any holiday which may occur during such period :

Provided further that where the employment of a worker who has completed a period of four months' continuous service in a factory is terminated before he has completed a period of twelve months' continuous service, he shall be deemed to have become entitled to leave for the number of days which bears to the number of days specified in this sub-section the same proportion as the period of his continuous service bears to the continuous service of twelve months and the occupier of the factory shall pay to him the amount payable under section 80 in respect of the leave to which he is deemed to have become entitled.

(2) If a worker does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months :

Provided that the total number of days of leave which may be carried forward to a succeeding period shall not exceed fifteen in the case of an adult or twenty in the case of a child :

Provided further that a worker who has applied for leave with wages but has not been given such leave in accordance with any scheme drawn up under sub-sections (4) and (5), shall be entitled to carry forward the unavailed leave without any limit.

(3) A worker may in any such period of twelve months apply in writing to the manager of the factory, not less than fifteen full working days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof, allowable to him during that period under sub-sections (1) and (2) :

Provided that the number of instalments in which the leave is proposed to be taken shall not exceed three :

Provided further that the application shall be made not less than thirty full working days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947).

(4) If, for the purpose of ensuring the continuity of work in a factory, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947) or a similar committee constituted under any other Act, or if there is no such Works Committee or a similar committee in the factory the occupier or the manager of the factory in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the leave allowable under this section may be regulated.

(5) A scheme lodged under sub-section (4) shall be posted in convenient place in the factory and shall be in force for a period of twelve months from the date on which it is lodged with the Chief Inspector, and may thereafter be renewed, with or without modification, for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar committee or, as the case may be, by the manager of the factory in agreement with the representatives of the workers as specified in sub-section (4).

(6) An application for leave which does not contravene the provisions of sub-section (3) shall not be refused unless the refusal is in accordance with a scheme for the time being in operation under sub-sections (4) and (5).

(7) If a worker entitled to leave under sub-sections (1) and (2) is discharged from the factory before he has taken the entire leave to which he is entitled, or if, having applied for and having not been granted such leave, he quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

Explanation 1.—For the purposes of this section a worker shall be deemed to have completed a period of continuous service in a factory, notwithstanding any interruption in service during that period brought about by—

(i) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of the period, or

(ii) a strike which is not an illegal strike or a lock out, or

(iii) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or

(iv) leave admissible or granted under any other law.

Explanation 2.—“Authorised leave” shall include any casual absence due to any reasonable cause :

Provided that the worker within a week from the commencement of the absence gives the reasons for the absence in writing to the manager of the factory, and may include periods of unauthorised leave, not exceeding in the

aggregate one-thirty-sixth of the period of continuous service, but shall not include any weekly holiday allowed under section 52 which occurs at the beginning or end of an interruption brought about by the leave.

Explanation 3.—"Illegal strike" means a strike which is illegal within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947) or of any other law for the time being in force relating to industrial disputes.

80. Wages during leave period—For the leave allowed to him under section 79 a worker shall be paid at a rate equal to the daily average of his total full-time earnings, exclusive of any overtime earnings and bonus, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the sale by the employer, of foodgrains and other articles at concessional rates, for the days on which he worked during the month immediately preceding his leave.

81. Payment in advance in certain cases.—A worker who has been allowed leave for not less than four days in the case of an adult and five days in the case of a child under section 79 shall, before his leave begins, be paid the wages due for the period of the leave allowed.

82. Power of Inspector to act for worker.—Any Inspector may institute proceedings on behalf of any workers to recover any sum required to be paid by an employer under this Chapter which the employer has not paid.

83. Power to make rules.—The Provincial Government may prescribe the keeping by managers of factories of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors.

84. Power to exempt factories.—Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision, it may, by written order, exempt the factory from all or any of the provisions of this Chapter, subject to such conditions as may be specified in the order.

CHAPTER IX.

SPECIAL PROVISIONS.

85. Power to apply the Act to certain premises.—(1) The Provincial Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on notwithstanding that—

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner :

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

Explanation.—For the purposes of this section, "owner" shall include a lessee or mortgagee with possession of the premises.

86. Power to exempt public institution.—The Provincial Government may exempt, subject to such conditions as it may consider necessary, any

workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training or reformation, from all or any of the provisions of this Act :

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the Provincial Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the Provincial Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

87. *Dangerous operations.*—Where the Provincial Government is of opinion that any operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the operation is carried on—

- (a) specifying the operation and declaring it to be dangerous ;
- (b) prohibiting or restricting the employment of women, adolescents or children in the operation ;
- (c) providing for the periodical medical examination of persons employed, or seeking to be employed, in the operation, and prohibiting the employment of persons not certified as fit for such employment ;
- (d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on ;
- (e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the operation.

88. *Notice of certain accidents.*—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

89. *Notice of certain diseases.*—(1) Where any worker in a factory contracts any disease specified in the Schedule, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be, suffering from any disease specified in the Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector stating—

- (a) the name and full postal address of the patient,
- (b) the disease from which he believes the patient to be suffering, and
- (c) the name and address of the factory in which the patient is, or was last, employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of a certifying surgeon or otherwise, that the person is suffering from a disease specified in the Schedule, he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land-revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

90. *Power to direct enquiry into cases of accident or disease.*—(1) The Provincial Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (XLV of 1860).

(3) The person holding an inquiry under this section shall make a report to the Provincial Government stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The Provincial Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The Provincial Government may make rules for regulating the procedure at inquiries under this section.

91. *Power to take samples*—(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of the factory, take in the manner hereinafter provided a sufficient sample of any substance used or intended to be used in the factory, such use being—

(a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectually seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall—

(a) forthwith give one portion of the sample to the person informed under sub-section (1);

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon;

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any

Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

CHAPTER X

PENALTIES AND PROCEDURE

92. *General penalty for offences*.—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rule made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued.

93. *Liability of owner of premises in certain circumstances*.—Where in any premises separate buildings, or in any building separate parts of the building or separate parts of any room therein are leased or occupied by different persons in such a manner as to constitute separate factories, the owner of the premises or building, as the case may be, shall be liable, in the stead of the occupier of the factory for any contravention in, or in respect of, any part of the premises or building which is used as a factory, of—

(a) the provisions of Chapter III or of any rules made thereunder ;
(b) the provisions of Chapter IV or of any rules made thereunder, except in so far as they relate to plant or machinery belonging to or supplied by the occupier of the factory ;

(c) the provisions of Chapter V or of any rules made thereunder, and in computing for the purposes of any of the provisions mentioned in this clause the number of workers employed, the whole of the premises or building, as the case may be, shall be deemed to be a single factory :
Provided that—

(i) the provisions of this section shall not apply to, or in respect of, any building or room in the sole occupation of the occupier of a factory ;

(ii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to the cleanliness of sanitary conveniences only when those conveniences are used by workers of more than one occupier ;

(iii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to hoists and lifts, and means of escape and safety precautions in the case of fire, only in so far as the said provisions relate to things under his control.

94. *Enhanced penalty after previous conviction*.—If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both :

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished

95. *Penalty for obstructing Inspector*.—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this

Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

96. Penalty for wrongfully disclosing results of analysis under section 91.—Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

97 Offences by workers.—(1) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to twenty rupees.

(2) Where a worker is convicted of an offence punishable under subsection (1), the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

98 Penalty for using false certificate of fitness.—Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

99. Penalty for permitting double employment of child.—If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

100. Determination of occupier in certain cases.—(1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable.

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members, residing within the Provinces of India to be the occupier of the factory for the purposes of this Chapter, and such individual shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company, any one of the directors thereof, or in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable.

Provided that the company may give notice to the Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case within the Provinces of India, to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder, as the case may be, shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

(3) Where the owner of any premises or building referred to in section 93 is not an individual, the provisions of this section shall apply to such owner as they apply to occupiers of factories who are not individuals.

101. Exemption of occupier or manager from liability in certain cases.—Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance—
that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence :

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor :

Provided further that, if the person charged as the actual offender by the occupier or manager cannot be brought before the Court at the time appointed for hearing the charge, the Court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

102. Power of Court to make orders.—(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act the Court may, in addition to awarding any punishment, by order in writing, require him, within a period specified in the order (which the Court may, if it thinks fit and on application in such behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period as the case may be, the order of the Court has not been fully complied with, the occupier or manager, as the case may be, shall be

deemed to have committed a further offence, and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

103. Presumption as to employment—If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

104. Onus as to age.—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

105. Cognizance of offences.—(1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

106. Limitation of prosecutions—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector :

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER XI

SUPPLEMENTAL

107. Appeals.—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the Provincial Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the Provincial Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed :

Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the Provincial Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think

fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

108. Display of notices.—(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

109. Service of notices.—The Provincial Government may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

110. Returns.—The Provincial Government may make rules requiring owners, occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

111. Obligations of workers.—(1) No worker in a factory—

(a) shall wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein ;

(b) shall wilfully and without reasonable cause do anything likely to endanger himself or others ; and

(c) shall wilfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

112. General power to make rules.—The Provincial Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

113. Powers of Centre to give directions.—The Central Government may give directions to a Provincial Government as to the carrying into execution of the provisions of this Act.

114. No charge for facilities and convenience.—Subject to the provisions of section 46 no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided, or any equipments or appliances to be supplied by the occupier under the provisions of this Act.

115. Publication of rules.—All rules made under this Act shall be published in the official Gazette, and shall be subject to the condition of previous publication ; and the date to be specified under clauses (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than three months from the date on which the draft of the proposed rules was published.

116. *Application of Act to Government factories.*—Unless otherwise provided this Act shall apply to factories belonging to the Central or any Provincial Government.

117. *Protection to persons acting under this Act*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

118. *Restriction on disclosure of information.*—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of, this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

119. *Amendment of section 3, Act XXVI of 1938.*—In sub-section (3) of section 3 of the Employment of Children Act, 1938, for the word "twelfth" the word "fourteenth" shall be substituted.

120. *Repeal and savings.*—The enactments set out in the Table appended to this section are hereby repealed :

Provided that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act.

TABLE
Enactments repealed.

Year	No.	Short title.
1934	... XXV	... The Factories Act, 1934.
1944	... XIV	... The Factories (Amendment) Act, 1944.
1945	... III	... The Factories (Amendment) Act, 1945.
1946	... X	... The Factories (Amendment) Act, 1946.
1947	... V	... The Factories (Amendment) Act, 1947.

THE SCHEDULE
(See sections 89 and 90)
List of Notifiable Diseases

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead tetra-ethyl poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.

11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
 - (a) radium or other radio-active substances ;
 - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances:

The Essential Supplies (Temporary Powers) (Amendment) Act, 1948.

Received the assent of the Governor-General on the 23rd September 1948 and is published in the *Gazette of India*, Extraordinary, Part, IV, dated the 23rd September 1948.

Act No. LXIV of 1948.

An Act to amend the Essential Supplies (Temporary Powers) Act, 1943.

WHEREAS it expedient to amend the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Essential Supplies (Temporary Powers) (Amendment) Act, 1948.

2. *Amendment of section 7, Act XXIV of 1948.*—For the proviso to sub-section (1) of section 7 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the following shall be substituted, namely :—

“Provided that—

(a) where the contravention is of an Order relating to cotton textiles, the Court shall—

(i) sentence any person convicted of such contravention to imprisonment for a term which may extend to three years and may, in addition, impose a sentence of fine, and

(ii) direct that any property in respect of which the Order has been contravened or such part of it as the Court may deem fit shall be forfeited to His Majesty ; and

(b) where the contravention is of an Order relating to foodstuffs which contains an express provision in this behalf, the Court shall direct that any property in respect of which the Order has been contravened shall be forfeited to His Majesty, unless for reasons to be recorded in writing it is of opinion that the direction should not be made in respect of the whole, or, as the case may be, a part, of the property.”

PART IV

ORDINANCES

Published in the *Gazette of India*, Extraordinary, dated 31st October, 1947.

The Indian Merchant Shipping (Restriction of Transfer of Registry) Ordinance, 1947.

ORDINANCE No. XXVII of 1947.

An Ordinance to conserve the strength of Indian registered merchant shipping.

WHEREAS an emergency has arisen which makes it necessary to provide for the conservation of the strength of Indian registered merchant shipping;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Indian Merchant Shipping (Restriction of Transfer of Registry) Ordinance, 1947.

(2) It shall come into force at once.

2. *Power to prevent transfer of registry to ports outside India.*—Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), no application made, whether before or after the commencement of this Ordinance, for the transfer of the registry of a ship from a port of registry in India to a port of registry outside India shall be granted except with the previous approval of the Central Government, and the Central Government may, if it considers necessary or expedient so to do for the purpose of conserving the strength of Indian registered merchant shipping, refuse to give its approval to any such transfer.

Published in the *Gazette of India*, Extraordinary, dated the 4th December 1947.

The Cotton Textiles Equalisation Fund Ordinance, 1947.

ORDINANCE No. XXVIII of 1947.

An Ordinance to create the Cotton Textiles Equalisation Fund and to levy surcharge on the prices of certain cotton textiles manufactured in the Provinces of India.

WHEREAS an emergency has arisen which makes it necessary to stabilize the prices of the cotton textiles manufactured in the Provinces of India and for that purpose to create a fund by levying surcharge on the prices of certain cotton textiles manufactured in the Provinces of India;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Cotton Textiles Equalisation Fund Ordinance, 1947.

(2) It extends to all the provinces of India.

(3) It shall be deemed to have come into force on the 1st day of December 1947.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “cloth” and “yarn” mean respectively the cloth and yarn of which prices have been fixed by any order made under section 3 or continued by section 17 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946),

(b) “Fund” means the Cotton Textiles Equalisation Fund established under section 3;

(c) “prescribed” means prescribed by rules made under this Ordinance;

(d) “producer” means a person engaged in the production of cloth or yarn or both by power as defined in clause (f) of section 2 of the Factories Act, 1934 (XXV of 1934), and the expression “produced” shall be construed accordingly.

3. *The Cotton Textiles Equalisation Fund.*—(1) The Central Government shall, for the purposes of this Ordinance, create and maintain a Fund to be called the Cotton Textiles Equalisation Fund.

(2) The Fund shall consist of the surcharge and the penalty, if any, imposed under this Ordinance.

4. *Levy of surcharge.*—The Central Government may, by notification in the official Gazette, levy on the prices of any cloth or yarn produced in any textile mill or factory after the 30th day of November 1947 or, in the case of cloth used after such date, within such mill or factory for the manufacture of any article of clothing or any other article from cloth, a surcharge at such rate as may be specified in the notification.

5. *Power to exempt.*—The Central Government may, by notification in the official Gazette, exempt any cloth or yarn produced by any producer or class of producers from the surcharge levied under section 4.

6. *Payment of surcharge.*—The surcharge shall be paid by the producer to such authority, within such time and in such manner as may be prescribed.

7. *Penalty for non-payment.*—If any surcharge payable under this Ordinance is not paid as prescribed, it shall be deemed to be in arrears and the authority prescribed may, after such enquiry as he deems fit, impose on the producer a penalty not exceeding the amount of surcharge in arrears.

8. *Recovery of surcharge and penalty.*—The amount of surcharge in arrears and any sum imposed as penalty under section 7 shall, without prejudice to any other liability incurred under this Ordinance, be recovered as arrears of land revenue.

9. *Surcharge and penalty to be credited to the fund.*—The amount of any surcharge paid under section 6 and the amount of any surcharge in arrears and the penalty thereon recovered under section 8 shall be credited to the Fund.

10. *Application of Fund.*—(1) The Central Government may apply the Fund for—

(a) meeting the expenses of administering the Fund;
(b) paying subventions to producers as prescribed; and
(c) making grants, not exceeding twelve-and-a-half per cent of the moneys to the credit of the Fund, to the Provincial Governments and such other authorities as may be constituted by the Central Government for carrying on such labour welfare measures for the benefit of workers in the cotton textile industry as may be approved by it.

(2) Where any dispute arises as to whether or not any particular expenditure is debitable to the Fund, the decision of the Central Government thereon shall be final.

11. Accounts and Audit.—The accounts of the Fund shall be kept in such manner as may be specified by the Auditor General of India and shall be audited by him.

12. Power of inspection, entry and search.—Any authority authorised by the Central Government in this behalf may, with a view to securing compliance with this Ordinance,

(a) require any producer to furnish to such authority such information relating to his business as that authority may specify;

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of such producer;

(c) enter and search or authorise any person to enter and search any premises and seize or authorise any person to seize any cloth or yarn in respect of which he has reason to believe that a contravention of this Ordinance or any rule made thereunder has been or is about to be committed.

13. Penalty for evasion of surcharge or failure to comply with order under section 12.—(1) Whoever evades or attempts to evade the payment of surcharge payable by him under this Ordinance or fails to comply with any order issued to him under clause (a) of section 12 or furnishes any information which is false and which he knows or has reasonable cause to believe to be false or does not believe to be true, shall be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Any court trying any offence under this Ordinance may order that any cloth or yarn together with the packages or coverings thereof in respect of which the Court is satisfied that an offence under this Ordinance has been committed shall be forfeited to the Central Government.

14. Compounding offences.—(1) The authority prescribed may accept from any producer who has committed or who is reasonably suspected of having committed an offence under this Ordinance or any rule made thereunder, a sum of money in lieu of prosecution by way of composition for the offence.

(2) On payment by such person of such sum of money to such officer, such person, if in custody, shall be set at liberty and any property seized shall be released, and, if magisterial proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

15. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) provide for the method of levy and collection of the surcharge;
- (b) prescribe the authorities to whom, the time within which and the manner in which the surcharge shall be payable;
- (c) provide for the appointment of officers to supervise the issue or use of cloth or yarn within any textile mill or factory;
- (d) provide for the records to be maintained by a producer;
- (e) regulate the manner of inspection or search of any premises used for the production or storage of cloth or yarn and the seizure of the cloth or yarn liable to seizure;
- (f) provide for the method of recovery of the amount of surcharge in arrears and any penalty thereon;
- (g) provide for any other matter which is to be or may be prescribed.

(3) In making any rule under this section the Central Government may provide that a breach of the rule shall, where no other penalty is provided by this Ordinance, be punishable with fine not exceeding one thousand rupees.

Published in the *Gazette of India*, Extraordinary, dated 13th December, 1947.

The Banking Companies (East Punjab and Delhi) Second Amendment, Ordinance, 1947.

ORDINANCE No. XXIX of 1947.

An Ordinance further to amend the Banking Companies (East Punjab and Delhi) Ordinance, 1947.

WHEREAS an emergency has arisen which makes it necessary further to amend the Banking Companies (East Punjab and Delhi) Ordinance, 1947 (XX of 1947), for the purpose hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Banking Companies (East Punjab and Delhi) Second Amendment Ordinance, 1947.

(2) It shall come into force at once.

2. *Amendment of section 4, Ordinance XX of 1947.*—In section 4 of the Banking Companies (East Punjab and Delhi) Ordinance, 1947,—

(1) after clause (a), the following clause shall be inserted, namely:—

“(aa) shall, on presentation for payment of a draft, pay to the payee or the person entitled to receive payment of the amount thereof at the branch on which the draft is drawn, such amount not exceeding thirty per cent. of the amount of the draft, or seven hundred and fifty rupees, whichever is less, and may make, at a branch situated within the Provinces of India, payment similarly limited in amount to any person presenting a draft at the branch who satisfies the company that he is the payee or the person entitled to receive payment of the amount of the draft drawn on a branch of the company situated outside the Province of India;”;

(2) in clause (c) after the word, letter and brackets “clause (a)” the words, letters and brackets “or clause (aa)” shall be inserted.

Published in the Gazette of India, Extraordinary, dated 24th December 1947.

The Junagadh Administration (Property) Ordinance, 1947.

Ordinance No. XXX of 1947.

An Ordinance to provide for the vesting of certain property belonging to the State of Junagadh in the Administrator appointed by the Central Government.

WHEREAS on or about the 9th day of November 1947 the administration of the State of Junagadh was handed over to the Central Government ;

AND WHEREAS certain property consisting, among other things, of bank deposits, Government securities and shares of joint stock companies belonging to the said State stands in the name of His Highness the Nawab of Junagadh or the Dewan of Junagadh or other officers or persons ;

AND WHEREAS an emergency has arisen which makes it necessary to vest the said property in the Administrator appointed by or on behalf of the Central Government ;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c.2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Junagadh Administration (Property) Ordinance, 1947.

(2) It shall come into force at once.

2. *Definitions.*—In this Ordinance,—

(a) “Administrator” means the Administrator for the time being of the Junagadh State appointed by or on behalf of the Central Government ;

(b) “securities” means the Central Government securities described in Part II of the Schedule ;

(c) “Schedule” means the Schedule to this Ordinance.

3. *Vesting and disposal of property and powers of Administrator.*—(1) Notwithstanding anything contained in any law for the time being in force, the property described in the Schedule, whether in the name of His Highness the Nawab or the Dewan or the Private Secretary, to His Highness the Nawab or the Manager and the Engineer-in-Chief, Junagadh State Railway or the Chief Accounts Officer, Junagadh State or any other person whatsoever or in the name of more than one of them shall be deemed on and from the 9th day of November 1947 to have vested in the Administrator and the Administrator shall, as from that date, hold and be entitled to and have the power to deal with and dispose of the said property as such Administrator.

(2) Without prejudice to the generality of the foregoing provisions, the Administrator shall have the power to—

(a) receive and give full and effectual discharge for moneys, securities and other property described in the Schedule ;

(b) sell, transfer or otherwise dispose of or deal with such property.

4. *Issue of duplicate securities.*—Notwithstanding anything contained in any law for the time being in force, the Reserve Bank of India shall issue to the Administrator duplicate securities in his name in lieu of the securities specified in Part II of the Schedule as if the securities so specified had been lost and such duplicate securities shall have the same effect as if they had been issued under section 11 of the Public Debts (Central Government) Act 1944 (XVIII of 1944).

5. *Transfers otherwise than by Administrator void.*—Any transfer or dealing with any of the property described in the Schedule after the 8th day of November 1947, otherwise than by the Administrator, shall be, and shall always be deemed to have been, void and of no effect.

6. *Bar of jurisdiction.*—(1) No Court shall have jurisdiction to entertain any suit or other proceeding in respect of any of the property described

in the Schedule or to enforce any liability in respect thereof, otherwise than at the instance of the Administrator.

(2) Any claim in respect of such property by any person other than the Administrator may be submitted to the Central Government, whose decision in the matter shall be final.

7. *Protection of action taken under this Ordinance.*—No suit, prosecution or other legal proceeding shall lie against the Central Government, the Reserve Bank of India, any bank or company named in Parts I and III of the Schedule or any person for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Ordinance.

THE SCHEDULE.

PART I—BANK DEPOSITS

Serial No.	Name of Bank	In whose name standing
1.	The Imperial Bank of India, Bombay.	Dewan, Junagadh State.
2.	The Bank of India, Limited, Bombay.	Dewan, Junagadh State.
3.	The National Bank of India, Limited, Bombay.	Private Secretary to His Highness the Nawab of Junagadh.
4.	The Bank of India, Limited, Bombay.	Manager and Engineer-in-Chief, Junagadh State Railway, on behalf of the Railway.
5.	The Bank of India, Limited, Bombay.	Chief Accounts Officer, Junagadh State.

PART II. GOVERNMENT SECURITIES.

Serial No.	Kind of security, form and denomination	Amount Rs.
1.	4% Government Loan 1960/70 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 042362 to BY 042386 (25 x 50,000); Nos. BY 042449 and BY 042450 (2 x 50,000); Nos. BY 055398 to BY 055400; Nos. BY 066210 to BY 066214 (8 x 1,00,000); Nos. BY 067031 to BY 067036 (6 x 25,000) ...	23,00,000
2.	4½% Government Loan 1955/60 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 012641 and BY 012642 (2 x 1,00,000) ...	2,00,000
3.	4½% Government Loan 1955/60 (Ordinary Form) in the name of His Highness Sir Mahabat Khan, G.C.I.E., K.C.S.I., Nawab of Junagadh. No. BY 011838 (1 x 10,000), No. BY 011839 (1 x 25,000) ...	35,000
4.	3% Government Loan 1963/65 (Special Form) in the name of His Highness the Nawab of Junagadh. No. BY 026364 (1 x 15,700); Nos. BY 026365 to BY 026376, Nos. BY 036890 to BY 036904 (27 x 1,00,000) ...	4,00,000
5.	3½% Government Loan 1947/50 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 021217 to BY 021220 (4 x 1,00,000) ...	4,00,000
6.	3% Government Loan 1951/54 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 021377 to BY 021424 (48 x 25,000) ...	12,00,000
7.	3½% Government Loan 1954/59 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 003185 to BY 003209 (24 x 25,000) ...	6,00,000

Serial No.	Kind of security, form and denomination	Amount Rs.
8.	3% Funding Loan 1966/68 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 018923 to BY 018927 (5 x 5,00,000) ...	25,00,000
9.	3% Victory Loan 1957 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 033754 to BY 033756 (3 x 5,00,000) ...	15,00,000
10.	3% Conversion Loan 1946 (Special Form) in the name of His Highness the Nawab of Junagadh. Nos. BY 068173 to BY 068177 (5 x 1,00,000) repayable on or after 16th September 1986 ...	5,00,000
11.	3% Government Loan 1963/65 (Ordinary Form) in the name of Colonel His Highness Sir Mahabatkhanji, G.C.I.E., K.C.S.I., Nawab Sahib of Junagadh. Nos. BY 053649 and BY 053650, Nos. BY 052313 to BY 052320, Nos. BY 054411 to BY 054414, Nos. CA 031142 and CA 031143, Nos. BY 050506 to BY 050527 (38 x 25,000) ...	9,50,000
Total Rs.		1,29,00,700

PART III. SHARES OF JOINT STOCK COMPANIES.

Serial No.	Name of Joint Stock Company	Shares
1.	The Industrial Investment Trust, Limited.	1000 shares in the name of His Highness Sir Mahabat Khan, G.C.I.E., Nos. 29652 to 30651.
2.	The Central Provinces Railway Company, Limited.	1000 shares in the name of His Highness Nawab Sahib Mahabat Khan Rasool Khan, Nos. 47767 to 48766.

Published in the Gazette of India, Extraordinary, dated 27th December 1947.

The Negotiable Instruments Act and the Indian Limitation Act (Temporary Amendment) Ordinance, 1947.
Ordinance No. XXXI of 1947.

An Ordinance temporarily to amend the Negotiable Instruments Act, 1881, and the Indian Limitation Act, 1908.

WHEREAS an emergency has arisen which makes it necessary temporarily to amend the Negotiable Instruments Act, 1881 (XXVI of 1881), and the Indian Limitation Act, 1908 (IX of 1908), for the purpose hereinafter appearing;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by India (Provisional Constitution) Order, 1947, the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Negotiable Instruments Act and the Indian Limitation Act (Temporary Amendment) Ordinance, 1947.

(2) It shall come into force at once.

2. *Amendment of the Negotiable Instruments Act, 1881.*—After section

75A of the Negotiable Instruments Act, 1881, the following section shall be inserted, namely:—

“75B. *Presentment of negotiable instruments in riot areas unnecessary.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, no presentment for acceptance or payment of a negotiable instrument shall be necessary, and the instrument shall be deemed to be dishonoured at the due date for presentment if it is not possible for the holder thereof, being a bank, to present the instrument for acceptance or payment on account of the prevalence of riot or other disturbances in the area in which such presentment is to be made.

(2) Every bank which treats any negotiable instrument as dishonoured under sub-section (1) shall send to the Reserve Bank of India a return signed by two responsible officers of the bank in such form and manner as may be prescribed by the Reserve Bank of India.

Explanation.—For the purpose of this section a bank shall include a company or corporation incorporated by or under any law in force in any place in or outside the Provinces of India, which transacts the business of banking in any of the Provinces of India.”

3. *Amendment of the Indian Limitation Act, 1908.*—After section 5 of the Indian Limitation Act, 1908, the following section shall be inserted, namely:—

“A5. *Extension of period in cases of riots.*—Any suit which could not be instituted on and after the 1st day of August 1947 or cannot be instituted after the coming into force of this Ordinance within the period of limitation on account of the prevalence of riots or other disturbances may be admitted after the period of limitation prescribed therefor when the plaintiff satisfies the Court that he was unable to institute the suit within such period owing to the prevalence of riots or other disturbances.

Published in the Gazette of India, Extraordinary, dated 19th January 1948.

The Pakistan Military Personnel Amnesty Ordinance, 1948.

Ordinance No. I of 1948.

An Ordinance to implement an agreement with the Dominion of Pakistan regarding the grant of a general amnesty to certain military personnel.

WHEREAS certain military forces of the Dominion of India have, since the establishment of the Dominion, been engaged in duties connected with internal defence or the protection or evacuation of refugees in the Dominion of Pakistan, and certain military forces of Pakistan have been engaged in similar duties in India:

AND WHEREAS some members of the said forces are accused of having committed diverse offences while so engaged, and some other members have been convicted of such offences by criminal courts or courts-martial;

AND WHEREAS it has been agreed between the two Dominions that a general amnesty should be granted forthwith to all such persons as aforesaid in respect of any acts done or purporting to be done between the 15th day of August, 1947 and the 10th day of January, 1948;

AND WHEREAS an emergency has arisen which makes it necessary immediately to implement the said agreement in so far as India is concerned;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Pakistan Military Personnel Amnesty Ordinance, 1948.

(2) It extends to the whole of India.

(3) It shall come into force in the Provinces of India at once and in

any Acceding State on such date as the Government of that State may by public notification specify.

2. *Grant of amnesty to certain Pakistan military personnel.*—(1) No legal proceeding shall be instituted in any civil court, criminal court or court-martial in India against any member of the military forces of Pakistan who was engaged in duties connected with internal defence or the protection or evacuation of refugees in any part of India, in respect of any act done or purporting to be done between the 15th day of August, 1947 and the 10th day of January, 1948.

(2) If immediately before the commencement of this Ordinance any legal proceeding is pending against any such person in respect of any such act as aforesaid, the proceeding is hereby withdrawn.

(3) If any such person as aforesaid has before the commencement of this Ordinance been convicted by a criminal court or court-martial of an offence in respect of any such act as aforesaid, the sentence or punishment ordered by such court is hereby remitted, and the person shall, if under confinement, be released forthwith and any forfeiture or penalty imposed shall be set aside and fine realised from him shall be refunded.

(4) Any person who immediately before the 15th day of August, 1947, was a member of His Majesty's military forces in India shall be deemed to be a member of the military forces of Pakistan if in accordance with or by virtue of any orders issued before the said 15th day of August, he has opted for service in the military forces of Pakistan or has been assigned for such service.

Published in the Gazette of India, Extraordinary, dated the 23rd January 1948.

The Indian Army Act (Application) Ordinance, 1948.

Ordinance No. II of 1948.

An Ordinance to apply the Indian Army Act, 1911, to a certain class of officers.

WHEREAS it is expedient to amend the Indian Army Act, 1911 (VIII of 1911), for the purposes hereinafter appearing;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. V, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Indian Army Act (Application) Ordinance, 1948.

(2) It shall be deemed to have come into force on the 15th day of August 1947.

2. *Application of the Indian Army Act, 1911.*—The words "Indian Commissioned Officer" wherever they occur in the Indian Army Act, 1911 (VIII of 1911), shall be deemed to include an officer of Indian nationality holding commission in His Majesty's Land Forces.

Published in the Gazette of India, Extraordinary, dated the 7th February 1948.

The Transfer of Property (India) Ordinance, 1948.

Ordinance No. III of 1948.

An Ordinance to provide for the payment of taxes before the recognition of transfer of property.

WHEREAS an emergency has arisen which makes it necessary to provide for the payment of taxes before the recognition of transfer of property;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent, application and commencement.*—(1) This Ordinance may be called the Transfer of Property (India) Ordinance, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force at once in the Provinces of East Punjab, Delhi and Bombay and in other areas as and when the Government of India may direct.

2. *Effect of provisions inconsistent with other laws.*—Notwithstanding any other law for the time being in force the provisions of this Ordinance shall have effect throughout the areas to which it applies.

3. *Registration of documents.*—No Registering Officer, Revenue Officer, Custodian or other officer appointed to deal with property shall register any document, relating to property other than agricultural land, which is required to be registered under the provisions of clause (a), (b), (c) or (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), unless it is certified by the Inspecting Assistant Commissioner of Income-tax of the area in which the property is situate in respect of every person whose right, title or interest in the property is or will be transferred, assigned, limited or extinguished under the terms of the document, either that such person is not liable to taxation under the Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940) or the Business Profits Tax Act, 1947 (XXI of 1947) or that he has either paid or made satisfactory provision for the payment of all existing or anticipated liabilities under any of the said Acts, or that he is otherwise satisfied that the registration should be allowed.

4. *Recovery proceedings.*—If any right, title, or interest in any property whether moveable or immoveable, other than agricultural land, is or has been transferred, assigned, limited or extinguished after the 14th day of August 1947, the Income-tax Officer of the area in which the property is situate may at any time issue a notice to all or any of the parties to the transaction requiring them to produce within one month the certificate prescribed by section 3; and if such certificate is not produced he may forward a statement to the Collector showing the existing and anticipated tax liabilities of each or any of the said parties. The Collector shall then proceed to recover the total amount shown in the statement as if it were an arrear of land revenue, and for the purpose of the recovery proceedings he may treat the said property as if it belonged to all or any of the persons named in the statement.

5. *Bar of suits.*—No suit, prosecution or other legal proceeding shall lie against the Dominion Government, any Provincial Government, any Income-tax Officer or any other person or authority acting under his directions or in pursuance of any claim shown in the statement forwarded to the Collector under the preceding section, for anything which is in good faith done or intended to be done under this Ordinance.

Published in the Gazette of India, Extraordinary, dated 13th February 1948.

The Delhi Improvement Trust (Amendment) Ordinance, 1948.

Ordinance No. IV of 1948.

An Ordinance to amend the United Provinces Town Improvement Act, 1919, as applied to the Province of Delhi.

WHEREAS an emergency has arisen which makes it necessary to amend the United Provinces Town Improvement Act, 1919 (U.P. Act VIII of 1919), as applied to the Province of Delhi by notification of the Government of India, in the late Department of Education, Health and Lands No. P. 23-10/37-H., dated the 2nd day of March 1937, as subsequently amended, for the

purpose of expediting the execution of certain improvement schemes framed by the Delhi Improvement Trust thereunder ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Delhi Improvement Trust (Amendment) Ordinance, 1948.

(2) It extends to the Province of Delhi.

(3) It shall come into force at once.

2. *Application to schemes.*—The Central Government may by notification published in the official Gazette direct that the provisions of this Ordinance shall apply to any improvement scheme framed by the Delhi Improvement Trust under the provisions of the United Provinces Town Improvement Act, 1919 (U. P. Act VIII of 1919), as applied to the Province of Delhi (hereinafter referred to as the said Act).

3. *Amendment of sections 36, 37, 38, U. P. Act VIII of 1919.*—In the said Act, in its application to an improvement scheme to which the provisions of this Ordinance apply—

(a) in clause (a) of sub-section (2) of section 36, the words “weekly for three consecutive weeks” shall be deemed to be omitted ;

(b) in section 37, for the word “sixty”, the word “fifteen” shall be deemed to be substituted ;

(c) in section 38—

(i) in sub-section (1), for the word “thirty” the word “fifteen” shall be deemed to be substituted ;

(ii) in clause (b) of sub-section (2), for the word “sixty”, the word “fifteen” shall be deemed to be substituted.

Published in the Gazette of India (Extraordinary), dated the 1st April 1948.

The Indian Navy (Discipline) Amendment Ordinance, 1948.

Ordinance No. V of 1948.

An Ordinance to amend the Indian Navy (Discipline) Act, 1934.

WHEREAS an emergency has arisen which makes it necessary to amend the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934) for the purpose hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Indian Navy (Discipline) Amendment Ordinance, 1948.

(2) It shall come into force on the 1st day of April, 1948.

2. *Amendment of section 58, Naval Discipline Act (29 and 30 Vict., c. 109) as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934).*—In regulation 7 of section 58 of the Naval Discipline Act, as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934, for the words “the president is a captain”, the words “the president is a substantive or acting commander” shall be substituted.

Published in the Gazette of India (Extraordinary), dated the 20th April 1948.

The Exchange of Prisoners Ordinance, 1948.

Ordinance No. VI of 1948.

An Ordinance to provide, in pursuance of an agreement with Pakistan for the exchange of prisoners, for the transfer of certain prisoners from India to Pakistan and the reception in India of certain prisoners from Pakistan.

WHEREAS an agreement has been reached between the Government of India and the Government of Pakistan for the exchange of certain classes of prisoners between the two countries ;

AND WHEREAS an emergency has arisen which makes it necessary to provide in pursuance of the said agreement for the transfer of certain prisoners from India to Pakistan and for the reception in India of certain prisoners from Pakistan ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Exchange of Prisoners Ordinance, 1948.

(2) It extends to the whole of India.

(3) It shall come into force in the Province of East Punjab at once, and in any other Province or Acceding State on such date as the Central Government may specify by notification in the official Gazette.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “prison” includes any subsidiary jail, judicial lock-up or police lock-up, and any place used for the custody of persons who are ordered to be detained under any law for the time being in force ;

(b) “prisoner” means any person duly committed to custody in a prison under the writ, warrant or order of any court or authority other than a civil court or court martial ;

(c) “transferable prisoner” means—

(i) in the Province of East Punjab, any prisoner who, being a Muslim, is willing to be transferred to Pakistan under the provisions of this Ordinance, and

(ii) in any other Province or Acceding State in which this Ordinance is brought into force, any prisoner of such category as the Central Government may specify by notification in the official Gazette, who, being a Muslim, is willing to be transferred to Pakistan under the provisions of this Ordinance.

(d) “the Provincial Government”, in relation to any Acceding State in which this Ordinance is brought into force, means the Government of that State.

3. *Issue of warrants for transfer of prisoners.*—The Provincial Government may issue a warrant addressed to the officer in charge of a prison to deliver to the person presenting the warrant any transferable prisoner confined or detained in the prison, together with all the records relating to such prisoner and the personal effects taken from him at the time of his admission.

4. *Removal and delivery of prisoners.*—Upon presentation of a warrant issued under section 3, the officer in charge of the prison shall forthwith comply with the warrant and obtain thereon the signature of the person to whom delivery of the prisoner, records and articles is made in pursuance of the warrant ; and that person shall cause the prisoner, records and articles to be removed from the prison and delivered at such place, and to such authorised officer of Pakistan, as the Provincial Government may by general or special order specify in this behalf.

5. *Cesser of jurisdiction of Indian courts and authorities over prisoners.*—Upon the delivery of custody of a prisoner to an officer of Pakistan in accordance with the provisions of section 4, all courts and authorities in India shall, save as otherwise provided in section 8 or for the purposes of that section, cease to have or exercise, in relation to the prisoner, any jurisdiction in respect of the offence or other matter which was the cause of his confinement or detention in the prison.

6. *Lawfulness of custody and retaking upon escape.*—It shall be lawful for any officer of Pakistan to whom the custody of a prisoner is delivered under the provisions of section 4 to receive and hold in custody such prisoner and to convey him out of India, and if the prisoner escapes from such custody within India he may be retaken as a person accused of an offence may be retaken upon an escape.

7. *Transfer of records relating to transferable prisoners.*—Where a prisoner is or is to be transferred to Pakistan under the provisions of this Ordinance, the Provincial Government may requisition the record of any proceedings, including judicial proceedings, relating to that prisoner from any court or office, and may direct that such record shall be sent to the Government of Pakistan or the Government of any Province in Pakistan.

8. *Prohibition of return to India of transferred prisoners.*—(1) No person who has been transferred to Pakistan under the provisions of this Ordinance shall return to India except with the permission in writing of the Central Government.

(2) If any person contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to three years, and if, at the time of his transfer to Pakistan, he was undergoing a sentence of imprisonment in India, he shall further be sentenced to undergo the unexpired portion of such sentence without taking into account any period for which he may have been detained or confined in Pakistan after the transfer.

9. *Reception in India of prisoners transferred from Pakistan.*—(1) The Central Government may by general or special order specify the place or places at which, and the officer or officers to whom, the custody of prisoners confined or detained in Pakistan is to be delivered in pursuance of the agreement reached in this behalf between the Government of India and the Government of Pakistan.

(2) It shall be lawful for any such officer as aforesaid to receive and hold in custody any prisoner so delivered and to convey such prisoner to any place in a Province of India for being dealt with in accordance with law; and if the prisoner escapes from such custody he may be retaken as a person accused of an offence against an Indian law may be retaken upon an escape.

10. *Validation of action taken under East Punjab laws.*—Any order made, action taken, or thing done, in the exercise of any power conferred or purporting to be conferred by Part II of the East Punjab (Exchange of Prisoners) Ordinance, 1948, or Part II of the East Punjab (Exchange of Prisoners) Act, 1948, shall for all purposes be deemed to have been made, taken or done in the exercise of powers conferred by this Ordinance as if this Ordinance had commenced on the day such order was made, or such action was taken, or such thing was done.

Published in the *Gazette of India*, Extraordinary, dated the 24th April 1948.

The Delhi Water Supply (Emergency Provisions) Ordinance, 1948.

Ordinance No. VIII of 1948.

An Ordinance to provide for the conservation and use of certain sources of water supply in the Province of Delhi.

WHEREAS an emergency has arisen which makes it necessary to provide for the conservation and use of certain sources of water supply in the Province of Delhi;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

14 THE DELHI WATER SUPPLY (EMERGENCY PROVISIONS) ORDINANCE, 1948. [1948.]

1 *Short title, extent and commencement.*—(1) This Ordinance may be called the Delhi Water Supply (Emergency Provisions) Ordinance, 1948.

(2) It extends to the Province of Delhi.

(3) It shall come into force at once.

2. *Definition.*—In this Ordinance, the expression “competent authority” means ~~any~~ person or body of persons as the Central Government may, by notification in the official Gazette, appoint in this behalf.

3. *Power to regulate water supply.*—(1) Where the competent authority is satisfied that in any area to which this Ordinance extends, it is necessary to make provision for the conservation and use of water supply, it may, subject to the control of the Central Government, by order, provide for the regulation or prohibition of the storage, distribution, use or consumption of water derived from such sources as may be specified in the order, and so long as such order is in force no person shall store, distribute, use or consume water save in accordance with the provisions of such order.

(2) In issuing any order under the provisions of this section, the competent authority may exempt, subject to such conditions, if any, as may be specified, any person or class of persons from the provisions of any such order.

4. *Penalty for contravention of order.*—If any person contravenes any order made under this Ordinance by the competent authority, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

5. *Attempts and abetments.*—Any person who attempts to contravene, or abets the contravention of, any order made under this Ordinance shall be deemed to have contravened that order.

6. *Offences by corporations.*—If the person contravening any order made under this Ordinance is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

7. *Protection of action taken under Ordinance.*—No suit, prosecution or other legal proceeding shall lie against any person or authority for anything which is in good faith done or intended to be done in pursuance of this Ordinance.

Published in the *Gazette of India, Extraordinary*, dated the 23rd April 1948.

The Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948.

Ordinance No. VII of 1948.

An Ordinance to confer powers to frame a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines.

WHEREAS an emergency has arisen which makes it necessary to confer powers to frame a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and extent.*—(1) This Ordinance may be called the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948.

(2) It extends to all the Provinces of India.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(Repealed by the Coal Mines Provident Fund and Bonus Schemes Act, XLVI of 1948, printed at page 177 of Part III. *Editor.*)

Published in the *Gazette of India*, Extraordinary, dated the 3rd May 1948.

The Arbitral Tribunal Dissolution Ordinance, 1948.

Ordinance No. IX of 1948.

An Ordinance to repeal the Arbitral Tribunal Order, 1947, and dissolve the Arbitral Tribunal set up thereunder.

WHEREAS the Arbitral Tribunal set up in pursuance of the Arbitral Tribunal Order, 1947, has disposed of all references made to it under the provisions of that Order ;

AND WHEREAS an emergency has arisen which makes it necessary to repeal the said Order and dissolve the said Tribunal ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement*—(1) This Ordinance may be called the Arbitral Tribunal (Dissolution) Ordinance, 1948,

(2) It shall come into force at once.

2. *Repeal of the Arbitral Tribunal Order and dissolution of the Arbitral Tribunal.*—The Arbitral Tribunal Order, 1947, is hereby repealed, and the Arbitral Tribunal set up thereunder is hereby dissolved :

Provided that neither the said repeal nor the said dissolution shall affect the validity of any award made by the said Tribunal under the provisions of the said Order, and every such award shall continue to be binding on all parties and persons directly or indirectly concerned in, or affected by, the award.

The Durgah Khawaja Sahab. (Amendment) Ordinance, 1948.

Ordinance No. X of 1948.

[Repealed by The Durgah Khawaja Sahab. (Amendment) Act, XLIV of 1948, printed at page 176 of Part III. *Editor.*]

Published in the *Gazette of India*, Extraordinary, dated the 25th May, 1948.

The Transfer of Property (India) (Amendment) Ordinance, 1948.

Ordinance No. XI of 1948.

An Ordinance to amend the Transfer of Property (India) Ordinance, 1948.

WHEREAS an emergency has arisen which makes it necessary to amend the Transfer of Property (India) Ordinance, 1948 (III of 1948), for the purpose hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), as adapted by the India (Provisional Constitution) Order, 1947, the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement*—(1) This Ordinance may be called the Transfer of Property (India) (Amendment) Ordinance, 1948.

(2) It shall come into force at once.

2. *Amendment of section 4, Ordinance III of 1948.*—In section 4 of the Transfer of Property (India) Ordinance, 1948,—

(a) for the words “ in any property whether moveable or immoveable, other than agricultural land ” the words “ in any immoveable property other than agricultural land or in any moveable property other than stocks,

shares and securities " shall be substituted, and shall be deemed always to have been substituted ;

(b) for the words " the certificate prescribed by " the words " a certificate by the Inspecting Assistant Commissioner of Income-tax of the said area in the terms mentioned in " shall be substituted, and shall be deemed always to have been substituted.

The Continuance of Legal Proceedings Ordinance, 1948.

Ordinance No. XII of 1948.

[Repealed by the Continuance of Legal Proceedings Act, XXXVIII of 1948, printed at page 170 of Part III. *Editor.*]

The Indian Income-Tax (Amendment) Ordinance, 1948.

Ordinance No. XIII of 1948.

[Repealed by the Indian Income-tax (Amendment) Act, LV of 1948, printed at page 192 of Part III. *Editor.*]

The Taxation on Income (Investigation Commission) (Amendment) Ordinance, 1948.

Ordinance No. XV of 1948.

[Repealed by the Taxation on Income (Investigation Commission) (Second Amendment) Act, XLIX of 1948, printed at page 187 of Part III. *Editor.*]

Published in the *Gazette of India*, Extraordinary, dated the 9th October 1948.

The Excess Profits Tax Ordinance (Amendment) Ordinance, 1948.

Ordinance No. XXVII of 1948.

An Ordinance further to amend the Excess Profits Tax Ordinance, 1943.

WHEREAS an emergency has arisen which makes it necessary further to amend the Excess Profits Tax Ordinance, 1943 (XVI of 1943) ;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Excess Profits Tax Ordinance (Amendment) Ordinance, 1948.

(2) It shall come into force at once.

2. *Amendment of section 2, Ordinance XVI of 1943.*—For sub-section (3) of section 2 of the Excess Profits Tax Ordinance, 1943, the following sub-section shall be substituted, namely :—

“(3) Any further sum, such as is referred to in sub-section (1), deposited in accordance with the provisions of that sub-section, whether before or after the commencement of the Excess Profits Tax Ordinance (Amendment) Ordinance, 1948 (XXVII of 1948), shall not be repaid by the Central Government unless five years have expired from the date on which the deposit was made :

Provided that the Central Government may repay any such deposit before the expiry of the period specified herein if it is satisfied that such repayment is in the public interest.”

PART V

BOMBAY ACTS

The Board of Indian Systems of Medicine (Extension of Term) Act, 1947.

The following Act of the Bombay Legislature having been assented to by the Governor on the 8th December 1947, is published in the *Bombay Government Gazette*, Pt. IV, dated the 12th December 1947.

Bombay Act No. XLIV of 1947.

An Act to provide for the extension of the term of office of the members of the Board of Indian systems of medicine, Bombay.

WHEREAS it is expedient to provide for the extension of the term of office of the members of the Board of Indian systems of medicine, Bombay; it is hereby enacted as follows :—

1. *Short title and duration.*—(1) This Act may be called the Board of Indian Systems of Medicine (Extension of Term) Act, 1947.

(2) It shall remain in force up to and inclusive of the 15th day of March 1949.

2. *Extension of term of office of members of Board of Indian systems of medicine, Bombay.*—Notwithstanding anything contained in sub-section (1) of section 6 of the Bombay Medical Practitioners' Act, 1938 (Bom. XXVI of 1938), hereinafter called "the said Act", the term of office of the members of the Board of Indian systems of medicine, Bombay, which by reason of the provisions of the said sub-section would have expired in March 1948 is hereby extended up to and inclusive of the 15th day of March 1949 which day for the purposes of the said Act shall be deemed to be the day of termination of office of the members and no elections or nominations shall be held or made to fill the vacancies of the said members on the expiry of the quinquennium in March 1948, notwithstanding anything contained in the said Act.

The Bombay Land Revenue Code (Amendment) Act, 1947.

The following Act of the Bombay Legislature having been assented to by the Governor on the 10th December 1947, is published in the *Bombay Government Gazette*, Pt. IV, dated the 15th December 1947.

Bombay Act No. XLV of 1947.

An Act to amend the Bombay Land Revenue Code, 1879.

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879 (Bom. V of 1879), for the purpose hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Land Revenue Code (Amendment) Act, 1947.

2. *Substitution of new section 216 for section 216 of Bom. V of 1879.*—For section 216 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), the following shall be substituted, namely :—

"216. *Chapters VIII to X to apply to alienated villages.*—(1) The provisions of Chapters VIII, VIII-A, IX and X shall be applicable to all alienated villages and alienated shares of villages subject to the following modifications :—

(i) subject to the provisions of any covenant or agreement entered into by the Provincial Government with the holder or holders of any such village or share the costs of any survey directed under section 95 or a fresh survey directed under section 106 and of any settlement carried out under the said

Chapters in any such village or share shall be payable by the holder or holders in proportion to their share in the rent or revenue of the village or share ;

(ii) if the Provincial Government so directs such costs shall also be payable by any class of persons who, in the opinion of the Provincial Government, have any interest in any land in such village or share and in such proportion as the Provincial Government may direct ;

(iii) on the introduction of a settlement under Chapter VIII or VIII-A, in any such village or share, the holder or holders of such village or share shall, in proportion to his share in the rent or revenue of the village or share, be liable to pay—

(a) the salaries of the village officers appointed for the village or the share including the commutation allowance payable in respect of a commuted kulkarni watan in the village, if any,

(b) the costs of the levy of a cess under section 93 of the Bombay Local Boards Act, 1923 (Bom. VI of 1923),

(iv) the liability under clauses (i) and (iii) shall be a first charge on the rent or revenue of such village or share ;

(v) the total amount payable under clauses (i) and (iii) in respect of the holding in any such village or share shall be recoverable from the holder of such village or share entered in the Record of Rights ;

(vi) the amount payable under clause (ii) by any class of persons shall be recoverable in such manner as the Provincial Government directs from the members of that class as entered in the Record of Rights.

(2) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section."

The Bombay Motor Vehicles Tax (Amendment) Act, 1947.

The following Act of the Bombay Legislature having been assented to by the Governor on the 10th December 1947, is published in the *Bombay Government Gazette*, Pt. IV, dated the 15th December 1947.

Bombay Act No. XLVI of 1947.

An Act to amend the Bombay Motor Vehicles Tax Act, 1935.

WHEREAS it is expedient to amend the Bombay Motor Vehicles Tax Act, 1935 (Bom. XXXIV of 1935), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Motor Vehicles Tax (Amendment) Act, 1947.

2. *Amendment of section 3 of Bom. XXXIV of 1935.*—In section 3 of the Bombay Motor Vehicles Tax Act, 1935 (Bom. XXXIV of 1935), (hereinafter called the said Act),—

(i) to sub-section (1) the following proviso shall be added, namely :—

"Provided that in the case of motor vehicles kept by a dealer in, or manufacturer of, such vehicles for the purposes of trade, the tax shall only be levied and paid by such dealer or manufacturer on vehicles permitted to be used on roads in the manner prescribed by rules made under the Motor Vehicles Act, 1939 (IV of 1939) " ;

(ii) the first proviso to sub-section (2) and the word " further " in the second proviso to the said sub-section (2) shall be deleted.

3. *Amendment of section 5 of Bom. XXXIV of 1935.*—In section 5 of the said Act,—

(i) in sub-section (1) for the portion beginning with the words " When any person " and ending with the words " to a refund " the following shall be substituted, namely :—

"When any person has paid the annual tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering autho-

rity stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the official Gazette ” ;

(ii) in sub-section (2) for the portion beginning with the words “When any person,” and ending with the words “to a refund,” the following shall be substituted, namely :—

“When any person has paid the quarterly tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette ”.

4. *Insertion of new section 5-A in Bom. XXXIV of 1935.*—After section 5 of the said Act, the following new section shall be inserted, namely :—

“5A. *Refund of tax in respect of motor vehicles not used in public places.*—When any person has paid the tax in respect of a motor vehicle, he shall be entitled to a refund of the same as provided in sub-sections (1) and (2) of section 5 on the production of a certificate signed by a registering authority stating that such authority is satisfied that the vehicle in respect of which the refund of the tax is claimed has not been used in any public place during the period for which such refund is claimed.”

5. *Amendment of section 6 of Bom. XXXIV of 1935.*—In section 6 of the said Act,—

(i) in sub-section (2)—

(a) for the words “altered so” the words “altered or is proposed to be used in such manner” shall be substituted ;

(b) for the words “such person” the words “such owner or person” shall be substituted ;

(c) after the words “alteration made” the words “or of such use” shall be inserted ;

(d) after the words “so altered” the words “or proposed to be so used” shall be inserted ;

(ii) after sub-section (2) the following new sub-section shall be inserted, namely :—

“(3) Such owner or person shall, at the time of making payment of the tax under sub-section (1) or of the additional tax under sub-section (2), produce, before the registering authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939 (IV of 1939)”.

6. *Amendment of section 7 of Bom. XXXIV of 1935.*—In section 7 of the said Act,—

(a) after the words “is altered” the words “or proposed to be used” shall be inserted ;

(b) after the words “being altered” the words “or so proposed to be so used” shall be inserted ;

(c) after the words “so altered” the words “or proposed to be so used” shall be inserted.

7. *Amendment of Schedule I to Bom. XXXIV of 1935.*—In Article IV in clause A of Schedule I to the said Act,—

(i) in paragraph (a) for the words and brackets “persons (excluding the driver of the vehicle)” the word “passengers” shall be substituted ;

(ii) in paragraph (b)—

(a) for the words and brackets “two persons (excluding the driver of the vehicle)” the words “four passengers” shall be substituted ;

(b) for the word “person” the word “passenger” shall be substituted”.

The Waste Lands (Claims) (Bombay Repeal) Act, 1947.

The following Act of the Bombay Legislature having been assented to by the Governor on the 12th December 1947, is published in the *Bombay Government Gazette*, Pt. IV, dated the 18th December 1947.

Bombay Act No. XLVII of 1947.

An Act to repeal the Waste Lands (Claims) (Bombay Repeal) Act, 1943, and the Waste Lands (Claims) Act, 1863.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), it is expedient to repeal the Waste Lands (Claims) (Bombay Repeal) Act, 1943 (Bom. IX of 1943) and the Waste Lands (Claims) Act, 1863 (XXIII of 1863);

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Waste Lands (Claims) (Bombay Repeal) Act, 1947.

2. *Repeal of Bom. IX of 1943 and Act XXIII of 1863.*—The Waste Lands (Claims) (Bombay Repeal) Act, 1943 (Bom. IX of 1943), and the Waste Lands (Claims) Act, 1863 (XXIII of 1863), are repealed:

Provided that in respect of any claim preferred or objection taken under the Waste Lands (Claims) Act, 1863 (XXIII of 1863), before the date of the coming into operation of the Waste Lands (Claims) (Bombay Repeal) Act, 1943 (Bom. IX of 1943), all the provisions of the Waste Lands (Claims) Act, 1863 (XXIII of 1863), shall be given effect to as if this Act had not been passed.

The Bombay Civil Courts (Amendment) Act, 1947.

The following Act of the Bombay Legislature having been assented to by the Governor-General on the 14th December 1947, is published in the *Bombay Government Gazette*, Pt. IV, dated the 22nd December 1947.

Bombay Act No. XLVIII of 1947.

An Act to repeal the Bombay Civil Courts (Amendment) Act, 1942, the Bombay Civil Courts (Second Amendment) Act, 1942, and the Bombay Civil Courts (Amendment) Act, 1945, and to re-enact certain provisions thereof.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), it is expedient to repeal the Bombay Civil Courts (Amendment) Act, 1942 (Bom. XI of 1942), the Bombay Civil Courts (Second Amendment) Act, 1942 (Bom. XX of 1942), and the Bombay Civil Courts (Amendment) Act, 1945 (Bom. X of 1945), and to re-enact certain provisions of the said Acts;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Civil Courts (Amendment) Act, 1947.

2. *Repeal of Bom. XI of 1942, Bom. XX of 1942 and Bom. X of 1945.*—The Bombay Civil Courts (Amendment) Act, 1942 (Bom. XI of 1942), the Bombay Civil Courts (Second Amendment) Act, 1942 (Bom. XX of 1942), and the Bombay Civil Courts (Amendment) Act, 1945 (Bom. X of 1945), are hereby repealed.

3. *Re-enactment of certain sections of Bom. XI of 1942, Bom. XX of 1942 and Bom. X of 1945.*—Section 2 of the Bombay Civil Courts (Amendment) Act, 1942 (Bom. XI of 1942), and of the Bombay Civil Courts (Second Amendment) Act, 1942 (Bom. XX of 1942), and sections 2 to 8 (both inclusive) of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. X of 1945), are re-enacted.

The Bombay City Land-Revenue (Amendment) Act, 1947.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th December 1947, is published in the *Bombay Government Gazette*, Part IV, dated the 24th December 1947.

Bombay Act No. XLIX of 1947.

An Act to amend the Bombay City Land-Revenue Act, 1876.

WHEREAS it is expedient to amend the Bombay City Land-Revenue Act, 1876 (Bom. II of 1876), for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Bombay City Land-Revenue (Amendment) Act, 1947.

2. *Amendment of section 13 of Bom. II of 1876.*—In section 13 of the Bombay City Land-Revenue Act, 1876 (Bom. II of 1876) (hereinafter called the said Act), for the words “of the land on which the revenue is due or of any other property, moveable or immoveable, of the defaulter” the words “of such portion of the land on which the revenue is due or of such portion of any other property, moveable or immoveable, of the defaulter, as may be required to satisfy the demand” shall be substituted.

3. *Insertion of new section 13-A in Bom. II of 1876*—After section 13 of the said Act, the following new section shall be inserted, namely:—

“13A. *Application to set aside sale on deposit.*—(1) Notwithstanding anything contained in section 13, where any immoveable property has been sold under section 13, any person either owning such property or holding an interest therein by virtue of a title acquired before such sale, may within thirty days of such sale apply to the Collector to have the sale set aside, on his depositing with the Collector the amount of the revenue due together with the costs of attachment and sale of such property less any amount which may since the date of attachment of such property have been received by the Collector from the defaulter.

(2) Where such an application is allowed, the Collector shall make an order setting aside the sale:

Provided that no such order shall be made unless notice of the application has been given to all persons affected thereby.

(3) Where the sale of any immoveable property is set aside under sub-section (2), the purchaser shall be entitled to repayment of his purchase-money with interest.”

The Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (Suspension) (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 9th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 13th March 1948.

Bombay Act No. I of 1948.

An Act to repeal and re-enact the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (Suspension) Act, 1945.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (Suspension) Act, 1945 (Bom. XI of 1945); It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (Suspension) (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. XI of 1945.*—The Tobacco Duty

6 THE BOMBAY GROWTH OF FOODCROPS (REPEAL AND RE-ENACTMENT) ACT,
1948 & THE CITY OF BOMBAY MUNICIPAL (AMENDMENT) ACT, 1948. [1948.

(Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (Suspension) Act, 1945 (Bom. XI of 1945), is hereby repealed and re-enacted.

The Bombay Growth of Foodcrops (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 9th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 13th March 1948.

Bombay Act No. II of 1948.

An Act to repeal and re-enact the Bombay Growth of Foodcrops Act, 1944, and the Bombay Growth of Foodcrops (Amendment) Act, 1944.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Growth of Foodcrops Act, 1944 (Bom. VIII of 1944), and the Bombay Growth of Foodcrops (Amendment) Act, 1944 (Bom. XVI of 1944); It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Bombay Growth of Foodcrops (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. VIII of 1944 and Bom. XVI of 1944*—The Bombay Growth of Foodcrops Act, 1944 (Bom. VIII of 1944), and the Bombay Growth of Foodcrops (Amendment) Act, 1944 (Bom. XVI of 1944), are repealed and re-enacted.

The City of Bombay Municipal (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 11th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 13th March 1948.

Bombay Act No. III of 1948.

An Act to amend the City of Bombay Municipal Act, 1888.

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888 (Bom. III of 1888), for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*.—This Act may be called the City of Bombay Municipal (Amendment) Act, 1948.

2. *Repeal of Bom. XVI of 1942 and Bom. I of 1945*.—The City of Bombay Municipal (Fourth Amendment) Act, 1942 (Bom. XVI of 1942), and the City of Bombay Municipal (Amendment) Act, 1945 (Bom. I of 1945), are hereby repealed.

3. *Amendment of section 125 of Bom. III of 1888*—To sub-clause (d) of clause (2) of section 125 of the City of Bombay Municipal Act, 1888 (Bom. III of 1888) (hereinafter called the said Act), the following proviso shall be added, namely:—

“Provided that as respects the estimates for the seven financial years commencing from the financial year 1942-1943 this sub-clause shall have effect as if for the words ‘three times’ the word ‘twice’ were substituted.”

4. *Amendment of Schedule BB to Bom. III of 1888*.—To clause (4) of rule 5 of Schedule BB to the said Act, the following proviso shall be added, namely:—

“Provided that as respects the seven financial years commencing from the financial year 1942-1943, this clause shall have effect as if for the words ‘three times’ the word ‘twice’ were substituted.”

The Land Acquisition (Bombay Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 13th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 18th March 1948.

Bombay Act No. IV of 1948.

An Act to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Land Acquisition Act, 1894 (I of 1894), in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Land Acquisition (Bombay Amendment) Act, 1948.

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force at once.

(4) It shall remain in force for a period of five years only.

2. *Definitions.*—In this Act unless there is anything repugnant in the subject or context,—

(i) “housing scheme” means any housing scheme which the Government may from time to time undertake for the purpose of increasing accommodation for housing persons and shall include any such scheme undertaken from time to time with the previous sanction of the Provincial Government by a local authority or company;

(ii) “relevant date” means the first day of January 1948.

3. *Amendment of sections 3, 11 and 23 of Act I of 1894.*—(1) Where during the continuance of this Act any land is acquired under the Land Acquisition Act, 1894 (I of 1894) (hereinafter called “the said Act”), for the purpose of a housing scheme the said Act shall have effect in relation to such acquisition as if—

(a) in clause (f) of section 3 after the words “such provision” the words and brackets “and a housing scheme as defined in the Land Acquisition (Bombay Amendment) Act, 1948 (Bom. IV of 1948),” had been inserted;

(b) in section 11 after the words, figures and brackets “section 4, sub-section (1)” the words “and at the relevant date” had been inserted; and

(c) in section 23—

(i) in the first clause of sub-section (1), after the words, brackets and figures “section 4, sub-section (1),” the words “or at the relevant date, whichever is less” had been inserted; and

(ii) sub-section (2) had been omitted.

(2) Nothing in this section shall apply to any building.

The Bombay General Clauses (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 13th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 18th March 1948.

Bombay Act No. V of 1948.

An Act to amend the Bombay General Clauses Act, 1904.

WHEREAS it is expedient to amend the Bombay General Clauses Act, 1904 (Bom. I of 1904), for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay General Clauses (Amendment) Act, 1948.

2. *Amendment of section 3 of Bom. I of 1904.*—In section 3 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), (hereinafter called the said Act),—

8 THE BOMBAY UNIVERSITY (AMENDMENT) ACT, 1948 & THE [1948.
BOMBAY ESSENTIAL COMMODITIES CATTLE (CONTROL)
(AMENDMENT) ACT, 1948.

(1) in clause (17), the words and brackets "a Regulation (as hereinafter defined) and" shall be deleted; and

(2) clause (38) shall be deleted.

3. *Insertion of new section 7A in Bom. I of 1904.*—After section 7 of the said Act the following new section shall be inserted, namely :—

"7A. *Repeal of enactment making textual amendment in any Act.*—Where any Bombay Act made after the commencement of this Act repeals any enactment by which the text of any previous enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal."

The Bombay University (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 13th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 18th March 1948.

Bombay Act No. VI of 1948.

An Act to repeal the Bombay University (Amendment) Act, 1944, and to re-enact certain provisions thereof.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947 it is expedient to repeal the Bombay University (Amendment) Act, 1944 (Bom. XI of 1944), and to re-enact certain provisions thereof; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay University (Amendment) Act, 1948.

2. *Repeal of Bom. XI of 1944 and re-enactment of sections 2 and 3 thereof.*—The Bombay University (Amendment) Act, 1944 (Bom. XI of 1944) (hereinafter called the said Act), is hereby repealed and sections 2 and 3 thereof are re-enacted.

3. *Saving.*—Notwithstanding the repeal of the said Act and notwithstanding anything contained in the Bombay University Act, 1928 (Bom. IV of 1928), every Fellow and every member of any authority of the University holding office on the date of the coming into force of this Act, in respect of whom a date has been appointed under section 4 of the said Act for his ceasing to hold office, shall cease to hold it on such date.

The Bombay Essential Commodities and Cattle (Control) (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 13th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 19th March 1948.

Bombay Act No. VII of 1948.

An Act to amend the Bombay Essential Commodities and Cattle (Control) Act, 1946.

WHEREAS it is expedient to amend the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom. XXII of 1946), for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Essential Commodities and Cattle (Control) (Amendment) Act, 1948.

2. *Amendment of sections 4 and 10 of Bom. XXII of 1946.*—In the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom. XXII of 1946),—

(i) in clause (j) of sub-section (2) of section 4, after the word “committed” the words “and of any vehicle, vessel or animal which he has reason to believe has been, is being or is about to be used for carrying such articles,” shall be inserted; and

(ii) in sub-section (2) of section 10, after the word “contravened” the words “and any vehicle, vessel or animal which the Court is satisfied has been used with the knowledge of the person having the control thereof for carrying such property” shall be inserted.

The Bombay Sales of Motor Spirit Taxation (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 23rd March 1948.

Bombay Act No. IX of 1948.

An Act to repeal and re-enact the Bombay Sales of Motor Spirit Taxation Act, 1946, with certain modification.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, read with paragraph 6 of the India (Provisional Constitution) Order, 1947 (26 Geo. 5, Ch. 2), it is expedient to repeal and re-enact the Bombay Sales of Motor Spirit Taxation Act, 1946 (Bom. VI of 1946), with certain modification; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Sales of Motor Spirit Taxation (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. VI of 1946.*—The Bombay Sales of Motor Spirit Taxation Act, 1946 (Bom. VI of 1946), (hereinafter called “the said Act”), is repealed and re-enacted subject to the following modification, namely:—

In sub-section (2) of section 3 of the said Act, for the figures “6½” the figures “12½” shall be substituted.

3. *Saving.*—All licences granted or renewed or deemed to be granted or renewed under the said Act shall be deemed to be granted or renewed under the said Act as re-enacted by this Act.

The Land Acquisition (Bombay Amendment) (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. X of 1948.

An Act to repeal and re-enact the Land Acquisition (Bombay) (Amendment) Act, 1945.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Land Acquisition (Bombay Amendment) Act, 1945 (Bom. XX of 1945); It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Land Acquisition (Bombay Amendment) (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. XX of 1945.*—The Land Acquisition (Bombay Amendment) Act, 1945 (Bom. XX of 1945), is hereby repealed and re-enacted.

The Bombay Fodder and Grain Control (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XI of 1948.

An Act to repeal and re-enact the Bombay Fodder and Grain Control (Amendment) Act, 1941.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Fodder and Grain Control (Amendment) Act, 1941 (Bom. XVII of 1941); It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Fodder and Grain Control (Amendment) Act, 1948.

2. *Repeal and re-enactment of Bom. XVII of 1941.*—The Bombay Fodder and Grain Control (Amendment) Act, 1941 (Bom. XVII of 1941), is hereby repealed and re-enacted.

The Bombay Increase of Stamp Duties (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XII of 1948.

An Act to repeal and re-enact the Bombay Increase of Stamp Duties Act, 1943, and the Bombay Increase of Stamp Duties (Amendment) Act, 1944.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Increase of Stamp Duties Act, 1943 (Bom. XIV of 1943), and the Bombay Increase of Stamp Duties (Amendment) Act, 1944 (Bom. XIX of 1944); It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Increase of Stamp Duties (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. XIV of 1943 and Bom. XIX of 1944.*—The Bombay Increase of Stamp Duties Act, 1943 (Bom. XIV of 1943), and the Bombay Increase of Stamp Duties (Amendment) Act, 1944 (Bom. XIX of 1944); are hereby repealed and re-enacted.

The Bombay Increase of Court-fees (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XIII of 1948.

An Act to repeal and re-enact the Bombay Increase of Court-fees Act, 1943.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Increase of Court-fees Act, 1943 (Bom. XV of 1943); It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Increase of Court-fees (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. XV of 1943.*—The Bombay Increase of Court-fees Act, 1943 (Bom. XV of 1943), is hereby repealed and re-enacted.

The Ahmedabad Municipal Officers' Acts Validating (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XIV of 1948.

An Act to repeal and re-enact the Ahmedabad Municipal Officers' Acts Validating Act, 1944.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Ahmedabad Municipal Officers' Acts Validating Act, 1944 (Bom. XVII of 1944); It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Ahmedabad Municipal Officers' Acts Validating (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. XVII of 1944.*—The Ahmedabad Municipal Officers' Acts Validating Act, 1944 (Bom. XVII of 1944), is hereby repealed and re-enacted.

The Identification of Prisoners (Bombay Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XV of 1948.

An Act to amend the Identification of Prisoners Act, 1920, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920 (XXXIII of 1920), in its application to the Province of Bombay; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Identification of Prisoners (Bombay Amendment) Act, 1948.

2. *Amendment of section 4 of Act XXXIII of 1920.*—For section 4 of the Identification of Prisoners Act, 1920 (XXXIII of 1920), in its application to the Province of Bombay the following shall be substituted, namely :—

“4. *Taking of measurements or photograph of unconvicted persons.*—Any person—

(a) who has been arrested,—

(i) under section 55 of the Code of Criminal Procedure, 1898 (V of 1898), or under section 4 of the Bombay Beggars Act, 1945 (Bom. XXIII of 1945),

(ii) in connection with an offence punishable under section 61D of the Bombay District Police Act, 1890 (Bom. IV of 1890); or under section 112 of the City of Bombay Police Act, 1902 (Bom. IV of 1902), or under section 6 or 9 of the Bombay Beggars Act, 1945 (Bom. XXIII of 1945), or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards, or

(b) in respect of whom a direction or order under section 45 or 46B of the Bombay District Police Act, 1890 (Bom. IV of 1890), or under section 27 of the City of Bombay Police Act, 1902 (Bom. IV of 1902), or under sub-

section (1) or (2) of section 23 of the Bombay Beggars Act, 1945 (Bom. XXIII of 1945), or under section 2 of the Bombay Public Security Measures Act, 1947 (Bom. VI of 1947), has been made,

shall, if so required by a police officer, allow his measurements or photograph to be taken in the prescribed manner."

The Coroners (Bombay Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XVI of 1948.

An Act to amend the Coroners Act, 1871, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Coroners Act, 1871 (IV of 1871), in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Coroners (Bombay Amendment) Act, 1948.

2. *Amendment of section 3 of Act IV of 1871.*—Section 3 of the Coroners Act, 1871 (IV of 1871), (hereinafter referred to as the said Act) shall be renumbered as sub-section (1) of that section and after sub-section (1) so renumbered, the following new sub-section shall be inserted, namely:—

"(2) The Provincial Government may, from time to time, direct that there shall be one or more Additional Coroners within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay. Every such Additional Coroner shall be competent to exercise and perform all the powers and duties conferred upon or assigned to the Coroner of Bombay by or under this Act or any other law for the time being in force."

3. *Insertion of new section 4A in Act IV of 1871.*—After section 4 of the said Act, the following new section shall be inserted, namely:—

"4A. *Power of Coroner of Bombay to distribute work between himself and Additional Coroners.*—When one or more Additional Coroners are appointed, the Coroner of Bombay shall make such arrangements as he thinks fit for distribution of the work of the Coroner under the Act between himself and the Additional Coroners."

The Bombay Public Security Measures (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 18th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XVII of 1948.

An Act to amend the Bombay Public Security Measures Act, 1947.

WHEREAS it is expedient to amend the Bombay Public Security Measures Act, 1947 (Bom. VI of 1947), for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Public Security Measures (Amendment) Act, 1948.

2. *Amendment of section 6 of Bom. VI of 1947.*—To section 6 of the Bombay Public Security Measures Act, 1947 (Bom. VI of 1947), the following new sub-section shall be added, namely:—

"(8) The Provincial Government or the officer empowered under sub-section (2) or if there is no such officer, the Commissioner of Police, the District Magistrate or the Additional District Magistrate, as the case may

be, may, after making such enquiry as may be deemed necessary, refund either wholly or in part any fine paid by, or recovered from, any person under this section."

The Bombay Public Conveyances (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 19th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XVIII of 1948.

An Act to amend the Bombay Public Conveyances Act, 1920.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal the Bombay Public Conveyances (Amendment) Act, 1943 (Bom. XVIII of 1943), and to re-enact certain provisions of the said Act;

AND WHEREAS it is expedient to amend the Bombay Public Conveyances Act, 1920 (Bom. VII of 1920); for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Public Conveyances (Amendment) Act, 1948.

2. *Repeal of Bom. XVIII of 1943 and re-enactment of section 2 thereof.*—The Bombay Public Conveyances (Amendment) Act, 1943 (Bom. XVIII of 1943), is hereby repealed and section 2 thereof is re-enacted.

3. *Amendment of preamble of Bom. VII of 1920.*—For the preamble of the Bombay Public Conveyances Act, 1920 (Bom. VII of 1920), (hereinafter called the said Act), the following shall be substituted, namely:—

"WHEREAS it is expedient to amend to law relating to the regulation of public conveyances; AND WHEREAS it is expedient to provide for prohibiting the plying of certain classes of vehicles as public conveyances; It is hereby enacted as follows:—"

4. *Amendment of section 5 of Bom. VII of 1920.*—In section 5 of the said Act, before the brackets and figure "(1)", the following new sub-section shall be inserted, namely:—

"(1A) The Commissioner of Police may refuse to grant licenses for any class of vehicles if, in his opinion, it is undesirable that such vehicles should be used as public conveyances. The Commissioner of Police may, on the same ground, refuse to renew, and may, at any time, cancel the licenses already granted for such vehicles. On such cancellation the licensee shall be granted out of the fees paid by him for the license a refund of a sum equal to the amount of fees payable for the unexpired portion of the license calculated in proportion to the amount paid for the full period of the license."

The Bombay Local Boards (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 19th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 24th March 1948.

Bombay Act No. XIX of 1948.

An Act to amend the Bombay Local Boards Act, 1923.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal the Bombay Primary Education and Local Boards (Amendment) Act, 1945 (Bom. XXI of 1945), and to re-enact certain provisions of the said Act; AND WHEREAS it is expedient to amend the Bombay Local Boards Act, 1923 (Bom. VI of 1923), for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Local Boards (Amendment) Act, 1948.

2. *Repeal and re-enactment of Bom. XXI of 1945.*—The Bombay Primary Education and the Local Boards (Amendment) Act, 1945 (Bom. XXI of 1945), is hereby repealed and the provisions of clause (ii) of section 3 of that Act are hereby re-enacted.

3. *Amendment of section 3 of Bom. VI of 1923.*—After clause (ee) of section 3 of the Bombay Local Boards Act, 1923 (Bom. VI of 1923), (hereinafter referred to as the said Act), the following new clause shall be inserted, namely :—

“(ff) ‘district’ means the district referred to in sub-section (1) of section 3A or the local area declared as a district under sub-section (2) of that section, as altered by the notification, if any, issued under sub-section (3) of the same section ;”

4. *Insertion of new section 3A in Chapter II of Bom. VI of 1923.*—At the beginning of Chapter II of the said Act, the following new section shall be inserted, namely :—

“3A. *Power to constitute local area into district.*—(1) Save as otherwise provided in this section, every local area constituted as a district from time to time under the Bombay Land Revenue Code, 1879 (Bom. V of 1879), shall be deemed to be a district for the purposes of this Act.

(2) The Provincial Government may, in special circumstances, by notification in the *Official Gazette*, declare any local area whether in the same district constituted under the Bombay Land Revenue Code, 1879 (Bom. V of 1879), or in any other such district to be a district for the purposes of this Act and specify therein the name of the district.

(3) The Provincial Government may, by notification in the *Official Gazette*,—

- (i) exclude from any district any local area comprised therein ; or
- (ii) include in any district any local area in the vicinity thereof ; or
- (iii) cancel a notification issued under sub-section (2) ; or
- (iv) alter the name of any district.

(4) Before issuing a notification under sub-section (2) or sub-section (3), the Provincial Government shall, by a general notice published in the *Official Gazette*, require a district local board or boards or any persons who may be affected by the issue of such notification, to submit any objections to the proposal, and shall consider the objections submitted within the period specified in such notice.

(5) Every notification issued under sub-section (2) or clause (i) or clause (ii) of sub-section (3) shall contain a statement of reasons thereof and shall be laid before both the Chambers of the Provincial Legislature.

(6) If any district comprises only a part of the district constituted under the Bombay Land Revenue Code, 1879 (Bom. V of 1879), or two or more districts so constituted or parts of two or more such districts, the Provincial Government may, by notification in the *Official Gazette*, declare which officers shall be considered to be the Collector and the Commissioner, and which other officers referred to in this Act shall be considered as such officers, in respect of that district for the purposes of this Act”.

5. *Amendment of section 4 of Bom. VI of 1923.*—In section 4 of the said Act,—

(a) in sub-section (1), the words and figures “as constituted from time to time under the Bombay Land Revenue Code, 1879 (Bom. V of 1879),” shall be deleted ; and

(b) sub-section (5) shall be deleted.

6. *Amendment of section 93 of Bom. VI of 1923.*—In section 93 of the said Act,—

(a) in the marginal note for the words "one anna" the words "three annas" shall be substituted;

(b) in sub-section (1)—

(i) for the words beginning with the words "two annas" and ending with the words "three annas" the words "three annas" shall be substituted;

(ii) the first proviso shall be deleted; and

(iii) in the second proviso the word "further" shall be deleted.

7. *Amendment of section 95 of Bom. VI of 1923.*—In section 95 of the said Act, for the words "two annas" the words "three annas" shall be substituted.

8. *Amendment of section 131A of Bom. VI of 1923.*—In section 131A of the said Act, after the figures "1879" the words, brackets, figures and letter "or under sub-section (2) of section 3A" shall be inserted.

The Bombay Entertainments Duty (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 23rd March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 29th March 1948.

Bombay Act No. XXI of 1948.

An Act to amend the Bombay Entertainments Duty Act, 1923.

WHEREAS it is expedient to amend the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923), for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Entertainments Duty (Amendment) Act, 1948.

(2) It shall come into force on the 1st day of April 1948.

2. *Amendment of section 7 of Bom. I of 1923.*—For clause (h) of sub-section (1) of section 7 of the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923), the following shall be substituted, namely :—

"(h) for the exemption from entertainments duty or from any part or class thereof of soldiers, sailors or other defence forces in uniform of any nationality."

The Bombay Refugees Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 24th March 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 29th March 1948.

Bombay Act No. XXII of 1948.

An Act to provide for compulsory registration and movement of refugees and for certain other purposes.

WHEREAS with a view to securing public safety, maintaining order, public health and sanitation and avoiding pressure on accommodation, it is expedient to provide for compulsory registration and movement of refugees and for certain other purposes; It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Bombay Refugees Act, 1948.

(2) It extends to the whole of the Province of Bombay.

2. *Interpretation.*—In this Act, "refugee" means any person who has since the first day of August 1947, entered the Province of Bombay, having left his place of residence elsewhere on account of civil disturbances in that place or the fear of such disturbances.

3. *Registration Centres.*—In Greater Bombay the Commissioner of Police for the Greater Bombay and elsewhere the District Magistrate shall, as soon as may be by a general or special order, establish in respect of—

(a) each camp in which refugees are being accommodated, and

(b) each particular area specified by him, a registration centre for the

registration of refugees, and shall appoint a person or a committee of persons to be the registering authority in charge of each such centre.

4. *Registration of refugees.*—(1) Every refugee for the time being in the Province of Bombay shall, within fifteen days from the coming into operation of this Act or within seven days from the date of his arrival in the Province, whichever is later, register himself at the registration centre of the camp in which he is being accommodated or if he is being accommodated or is residing elsewhere than in a camp for which a registration centre has been established, at the registration centre of the area in which he is being accommodated or is residing :

Provided that a refugee who is the head of a family shall be responsible for the registration of members of his family for the time being with him :

Provided further that where a refugee is a female, a minor, a lunatic, an idiot or a person incapable by reason of being sick or infirm of attending at the registration centre, the person who may for the time being be looking after such refugee shall be responsible for his registration.

(2) A refugee registering under sub-section (1) or a person responsible for registration of a refugee under the said sub-section (1) shall to the best of his ability, correctly fill up, or cause so to be filled up, the form set out in the First Schedule.

5. *Certificate of registration.*—The registering authority shall issue to every refugee registering under this Act a certificate of registration in the form set out in the Second Schedule.

6. *Change of address.*—(1) If a refugee ceases to reside at the address recorded in the certificate of registration issued under section 5, he shall, within seven days of any such change of address, intimate his new address to the registering authority by which the certificate of registration was issued and if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time forward the certificate of registration to that other registering authority in order that the new address may be entered therein :

Provided that where a refugee is not the head of the family, the head of the family, and where a refugee is a female, a minor, a lunatic, an idiot or a sick or infirm person, the person who may for the time being be looking after such refugee shall intimate the change of address and forward the certificate of registration to the registering authority as aforesaid.

(2) Nothing in sub-section (1) shall apply where the change of address recorded in the certificate of registration is due to a temporary absence not intended to exceed thirty days in duration.

7. *Power of Provincial Government to order refugees to reside in particular camps, places or areas and to remove themselves from such camps, places or areas.*—The Provincial Government may, by order in writing, direct any refugee or class of refugees to reside in any camp or place or within any area or to leave any camp or place or area and go to and reside in any other camp or place or area in the Province of Bombay within a period specified in such order.

8. *Power of Provincial Government to remove refugees from any camp, place or area in the Province of Bombay.*—If any refugee fails to leave any camp, place or area, in accordance with an order made under section 7, he may be removed by any police officer or any person authorised by the Provincial Government in this behalf from such camp, place or area in such manner as may be specified by the Provincial Government by a general or special order.

Nothing in this section shall affect the liability of such refugee to the penalty provided in section 10.

9. *Orders for vaccination and inoculation of refugees.*—(1) An officer authorised by the Provincial Government in this behalf may, by order in writing, require a refugee or any person responsible for the registration of a refugee under sub-section (1) of section 4, to get himself or the refugee for whose registration he is so responsible vaccinated against small-pox or inoculated against plague, cholera or typhoid within fifteen days of such order, except where a certificate is produced from a registered medical practitioner or from a vaccinator or inoculator duly authorised by the Provincial Government in that behalf that such refugee has been vaccinated or re-vaccinated or inoculated, as the case may be, by him within six months immediately preceding the date of the order.

(2) Nothing in this section shall affect the liability of any person to get himself or any other person vaccinated or inoculated under any law for the time being in force.

10. *Penalties.*—Whoever refuses or without lawful excuse neglects to comply with the requirements of section 4 or section 6 or whoever gives particulars in filling the form under sub-section (2) of section 4 which are false and which he either knows or believes to be false or whoever contravenes any of the provisions of this Act or any rule made thereunder or any order made in pursuance of this Act shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

11. *Registering authorities and persons authorised to remove refugees to be public servants.*—Every person or a member of a committee appointed as a registering authority under section 3 and every person authorised by the Provincial Government to remove a refugee under section 8 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

12. *Protection of action taken under Act.*—No suit, prosecution or other legal proceeding shall lie against any person in respect of anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

13. *Offences to be cognizable.*—The offences under this Act shall be cognizable.

14. *Delegation of functions.*—The Provincial Government may, by order notified in the Official Gazette, direct that any power conferred or any duty imposed on it by this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the Provincial Government below the rank of a Collector, as may be so specified.

15. *Rules.*—(1) The Provincial Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the preparation and maintenance of registers of refugees registered under section 4 ;

(ii) the manner of service on refugees of orders made under this Act ; and

(iii) the vaccination and inoculation of refugees under section 9.

FIRST SCHEDULE.

[See section 4 (2)].

Form of Registration.

GOVERNMENT OF BOMBAY.

Registration of Refugees.

- (1) Name of the applicant in full (in capital letters with surname first).
- (2) Age.
- (3) Number of dependents at present in the Province of Bombay, their relationship and ages.
- (4) Occupation, profession or trade and monthly income prior to migration.
- (5) Address prior to migration, village, Tehsil, district (in detail).
- (6) Present address (Building, Floor, Street, Road, etc.).
- (7) Details of assistance received, if any, either through official or non-official organizations after migration. If so, from whom or which organisation.
- (8) Any moveable or immovable property either in the country from which migrated or elsewhere and its value.
- (9) Migration Route.
- (10) Details of identity documents or migration papers, if any, with the applicant.
- (11) Period of residence at place from which migrated.
- (12) Date and place of arrival in the Province of Bombay.
- (13) Whether he wishes to stay in the Province of Bombay. If so, for how long.
- (14) Whether willing to go outside the Province of Bombay. If so, the place he wishes to proceed to.

Remarks.

Signature/Left thumb impression and/or
Photograph of the
applicant, if available.

Place

194

Registering Authority.

SECOND SCHEDULE.

(See section 5).

Form of Certificate of Registration.

GOVERNMENT OF BOMBAY.

Political and Services Department.

Serial Number
Reception Camp Number
Registration Office Number
Name of refugees in full
Address before evacuation
Present address
Name of head of family

.....
.....
.....
.....
.....
.....
.....

Identification marks	
Signature or finger print of refugee	
Office of registration	
Registered by	
Date	
Place	194 .

Registering Authority.

The Bombay Finance (Amendment) Act, 1947.

The following Act of the Bombay Legislature has been assented to by the Governor General on the 28th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 30th March 1948.

Bombay Act No. XXIII of 1948.

An Act to repeal and re-enact the Bombay Finance (Amendment) Act, 1940, the Bombay Finance (Amendment) Act, 1941, the Bombay Finance (Amendment) Act, 1942, the Bombay Finance (Amendment) Act, 1943, the Bombay Finance (Amendment) Act, 1944, the Bombay Finance (Amendment) Act, 1945, and the Bombay Finance (Amendment) Act, 1946 and to amend the Bombay Finance Act, 1932.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2.), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal the Bombay Finance (Amendment) Act, 1940 (Bom. I of 1940), the Bombay Finance (Amendment) Act, 1941 (Bom. IV of 1941), the Bombay Finance (Amendment) Act, 1942 (Bom. VI of 1942), the Bombay Finance (Amendment) Act, 1943 (Bom. III of 1943), the Bombay Finance (Amendment) Act, 1944 (Bom. IV of 1944), the Bombay Finance (Amendment) Act, 1945 (Bom. IV of 1945), and the Bombay Finance (Amendment) Act, 1946 (Bom. IX of 1946), and to re-enact some of the provisions thereof;

AND WHEREAS it is expedient to amend the Bombay Finance Act, 1932 (Bom. II of 1932), for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Finance (Amendment) Act, 1948.

(2) It shall come into force on the 31st day of March 1948.

2. *Repeal of Bom. I of 1940 and re-enactment of sections 3 to 9 thereof.*—The Bombay Finance (Amendment) Act, 1940 (Bom. I of 1940), is hereby repealed and sections 3 to 9 thereof are re-enacted.

3. *Repeal of Bom. IV of 1941 and re-enactment of sections 3, 4, 6 and 7 thereof.*—The Bombay Finance (Amendment) Act, 1941 (Bom. IV of 1941), is hereby repealed and sections 3, 4, 6 and 7 thereof are re-enacted.

4. *Repeal of Bom. VI of 1942 and re-enactment of sections 3 and 5 thereof.*—The Bombay Finance (Amendment) Act, 1942 (Bom. VI of 1942), is hereby repealed and sections 3 and 5 thereof are re-enacted.

5. *Repeal of Bom. III of 1943 and re-enactment of section 3 thereof.*—The Bombay Finance (Amendment) Act, 1943 (Bom. III of 1943), is hereby repealed and section 3 thereof is re-enacted.

6. *Repeal of Bom. IV of 1944 and re-enactment of section 3 thereof.*—The Bombay Finance (Amendment) Act, 1944 (Bom. IV of 1944), is hereby repealed and section 3 thereof is re-enacted.

7. *Repeal of Bom. IV of 1945 and re-enactment of section 3 thereof.*—The Bombay Finance (Amendment) Act, 1945 (Bom. IV of 1945), is hereby repealed and section 3 thereof is re-enacted.

8. *Repeal of Bom. IX of 1946 and re-enactment of sections 3 to 8 thereof.*—The Bombay Finance (Amendment) Act, 1946 (Bom. IX of 1946), is hereby repealed and sections 3 to 8 thereof are re-enacted.

9. *Amendment of long title of Bom. II of 1932.*—In the long title of the Bombay Finance Act, 1932 (Bom. II of 1932) (hereinafter called “the said Act”), for the portion beginning with the words “in the Presidency of Bombay” and ending with the words “said Presidency” the following shall be substituted, namely :—

“, to amend the Court-fees Act, 1870 (VII of 1870), and the Indian Stamp Act, 1899 (II of 1899), in their application to the Province of Bombay, to provide for the levy of a tax on immovable property in certain urban areas and to amend the Bombay Entertainments Duty Act, 1923, and the Bombay Betting Tax Act, 1925.”

10. *Amendment of preamble of Bom. II of 1932.*—In the preamble of the said Act, for the portion beginning with the words “in the Presidency of Bombay” and ending with the words “of this Act” the following shall be substituted, namely :—

“, to amend the Court-fees Act, 1870 (VII of 1870), and the Indian Stamp Act, 1899 (II of 1899), in their application to the Province of Bombay, for the purposes hereinafter appearing, to provide for the levy of a tax on immovable property in certain urban areas and to amend the Bombay Entertainments Duty Act, 1923 (Bombay I of 1923), and the Bombay Betting Tax Act, 1925 (Bom. VI of 1925), for the purposes hereinafter appearing.”

11. *Amendment of section 2 of Bom. II of 1932.*—In section 2 of the said Act, sub-section (3) shall be deleted.

12. *Amendment of section 15 of Bom. II of 1932.*—In sub-section (5) of section 15 of the said Act, — (1) in clause (c),

(a) in Article 5 relating to “Agreement or Memorandum of an Agreement”

(i) after entry (b) the following new entry shall be inserted, namely :—

(bb) if relating to the purchase or sale of cotton ;

Four annas for every unit of transaction or part thereof ;

(ii) in entry (a) under “Exemptions” after the word “being” the words, brackets and letters “an Agreement or Memorandum of Agreement chargeable under entry (bb) of this Article or” shall be inserted ;

(iii) the following Explanation shall be added at the end, namely :—

“*Explanation.*—For the purposes of this Article, unit of transaction means 50 bales of cotton, a bale of cotton being equal to the quantity of cotton weighing approximately 392 lbs.”

(b) in Article 43 relating to “Note or Memorandum sent by a Broker or Agent to his principal”

(i) after the words “such principal,” where they occur for the first time, the following entry shall be inserted, namely :—

“(aa) of cotton

Four annas for every unit of transaction or part thereof ;

(ii) in entry (a) for the words “any goods” the words “any other goods” shall be substituted ;

(iii) for the word “Exemption” the following shall be substituted, namely :—

“*Exemptions.*

(1) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of cotton on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20B.

(2)";

(iv) the following Explanation shall be added at the end, namely :—

Explanation—For the purposes of this Article, unit of transaction means 50 bales of cotton, a bale of cotton being equal to the quantity of cotton weighing approximately 392 lbs.”;

(2) in clause (dd) after Article 20A the following new Article shall be inserted, namely :—

“ 20B. Clearance list relating to the transaction for the purchase or sale of cotton submitted to the clearing house of a Cotton Association. The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof.

Explanation.—For the purposes of this Article, a clearance list means a list relating to delivery or hedge contracts required to be submitted to the clearing house of a Cotton Association in accordance with the rules of such Association.”

13. *Amendment of section 22 of Bom. II of 1932.*—In the third proviso to section 22 of the said Act, for the words “used for the purpose of one and the same business” the words “owned by the same person” shall be substituted.

14. *Addition of new Part to Bom. II of 1932.*—After Part VI of the said Act, the following Part shall be added, namely :—

“PART VII

Other Taxes.

30. *Amendment of Bom. I of 1923.*—In the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923), for sub-section (1) of section 3, the following shall be substituted, namely :—

“(1) There shall from the 1st day of April 1948 be levied and paid to the Government of Bombay on all payments for admission to any entertainment a duty (hereinafter referred to as “entertainments duty”) at the following rate, namely :—

Where the payment, excluding the amount of duty, is made for admission to a race-course licensed under the Bombay Race-courses Licensing Act, 1912 (Bom. III of 1912), 37½ per cent. of such payment, and in any other cases,

where the payment, excluding the amount of the duty—

- | | | |
|--|-----|-----------------------------|
| (i) does not exceed four annas | ... | one anna. |
| (ii) exceeds four annas but does not exceed eight annas | ... | two and half annas. |
| (iii) exceeds eight annas but does not exceed one rupee | ... | five annas. |
| (iv) exceeds one rupee but does not exceed two rupees | ... | ten annas. |
| (v) exceeds two rupees but does not exceed four rupees | ... | one rupee and four annas. |
| (vi) exceeds four rupees but does not exceed five rupees | ... | two rupees. |
| (vii) exceeds five rupees but does not exceed ten rupees | ... | two rupees and eight annas. |

(viii) exceeds ten rupees for every five rupees or part thereof in excess of the first ten rupees, in addition

to the payment on the first ten rupees ... two rupees and eight annas.

31. *Amendment of Bom. VI of 1925.*—In Bombay Betting Tax Act, 1925 (Bom. VI of 1925) —

(a) in section 5, for the figures and words “10 per cent.” the figures and words “12½ per cent.” shall be substituted ;

(b) in section 8, for the figures and words “10 per cent.” the figures and words “12½ per cent.” shall be substituted.

The Bombay Sales Tax (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor General on the 28th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 30th March 1948.

Bombay Act No. XXIV of 1948.

An Act to repeal, re-enact and amend the Bombay Sales Tax Act, 1946.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Sales Tax Act, 1946 (Bom. V of 1946), as amended by the Bombay Sales Tax (Amendment) Act, 1946 (Bom. XVII of 1946), and by the Bombay Sales Tax (Amendment) Act, 1947 (Bom. XXV of 1947), and to amend further the said Act for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Sales Tax (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. V of 1946.*—The Bombay Sales Tax Act, 1946 (Bom. V of 1946), as amended by the Bombay Sales Tax (Amendment) Act, 1946 (Bom. XVII of 1946) and by the Bombay Sales Tax (Amendment) Act, 1947 (Bom. XXV of 1947) (hereinafter called “the said Act”), is repealed and re-enacted.

3. *Amendment of section 4 of Bom. V of 1946.*—In section 4 of the said Act, after sub-section (2) the following new sub-section shall be inserted, namely:—

“(2A) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.”

4. *Amendment of section 5 of Bom. V of 1946.*—In sub-section (1) of section 5 of the said Act, for clause (a) the following shall be substituted, namely:—

“(a) in the case of a dealer who brings any goods into the province of Bombay, whether by land, water or air, Rs. 10,000, provided his gross turnover in respect of such goods is not less than Rs. 1,000;”

5. *Substitution of new section 6 for section 6 of Bom. V of 1946.*—For section 6 of the said Act, the following shall be substituted, namely:—

6. *Levy and rates of tax.*—(1) The tax payable by a dealer under this Act shall consist of—

(a) a general tax at the rate of one half of an anna in the rupee levied on his taxable turnover in respect of sales or supplies of goods other than the goods specified in Schedule I; and

(b) a special tax at the rate of one anna in the rupee levied on his taxable turnover in respect of sales or supplies of goods specified in Schedule I.

(2) The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer, in lieu of the

amount of the general tax payable during any period, a lump sum by way of composition determined in the prescribed manner:—

(3) The "taxable turnover" for the purposes of clause (a) or (b), as the case may be, of sub-section (1) shall be determined in accordance with the following Rules:—

Rule I.—From the gross turnover of the dealer in respect of all his sales or supplies of goods, including goods specified in Schedule I, during any period of his liability to pay the tax, there shall first be deducted his turnover during that period in respect of—

(i) sales or supplies of any goods declared, from time to time, as tax-free under section 7 ;

(ii) sales or supplies to a registered dealer of goods certified by him as being intended for resale by him or of goods specified in the purchasing dealer's certificate of registration as being intended for use by him in the manufacture or processing of any goods for sale or supply, or sales or supplies to a registered dealer of containers and other materials for the packing of such goods ;

Provided that where such goods are utilised by him for purposes other than those specified in his certificate of registration, the price of goods so utilised shall be included in his taxable turnover ;

(iii) sales or supplies of goods which are shown to the satisfaction of the Commissioner to have been despatched by, or on behalf of, the dealer to an address outside the Province of Bombay or to have been removed to such address within such period as may be prescribed by, or on behalf of, the person purchasing the goods ; and

(iv) such other sales as may be prescribed.

Rule II—From that part of the balance remaining after making deductions under Rule I which is in respect of the sales or supplies of goods other than those specified in Schedule I there shall be deducted one-thirty-third of such part, and the remainder shall be the taxable turnover for the purposes of clause (a) of sub-section (1).

Rule III.—From that part of the said balance which is in respect of sales or supplies of goods specified in Schedule I, there shall be deducted one-seventeenth of such part, and the remainder shall be the taxable turnover for the purposes of clause (b) of sub-section (1)."

6. *Amendment of section 7 of Bom. V of 1946.*—In section 7 of the said Act,—

(1) in sub-section (1)—

(a) for the word "sale" the words "sales or supplies" shall be substituted ;

(b) for the words "the Schedule" the words and figures "Schedule II" shall be substituted ;

(2) in sub-section (2), for the words "to the Schedule" the words and figures "to the said Schedule II" shall be substituted.

7. *Amendment of section 8A of Bom V of 1946.*—To sub-section (3) of section 8A of the said Act, at the end the words and figure "notwithstanding anything contained in section 5" shall be added.

8. *Amendment of section 11 of Bom. V of 1946.*—In section 11 of the said Act, subsection (1) shall be renumbered as sub-section (1A) and before sub-section (1A) so renumbered the following new sub-section shall be inserted, namely:—

"(1) (a) The amount of tax due from a registered dealer shall in the case of first assessment be assessed in respect of such period not exceeding twelve months as the Commissioner may determine.

(b) In the case of subsequent assessments the amounts shall be assessed each for periods not less than twelve months, provided that if the dealer has at any date discontinued or transferred his business or ceased to be liable to pay the tax the amount shall be assessed for the period till that date."

9. *Amendment of section 12 of Bom. V of 1946.*—In clause (b) of sub-section (4) of section 12 of the said Act, after the brackets and figure "(1)" the brackets, figure and letter. ",(1A)" shall be inserted.

10. *Amendment of section 19 of Bom. V of 1946.*—In section 19 of the said Act,—

(1) for the word "determine" the words "make an order determining" shall be substituted ;

(2) for the words "may direct" the words "may in such order direct" shall be substituted.

11. *Substitution of new section 19A of Bom. V of 1946.*—For section 19A of the said Act, the following shall be substituted, namely :—

"19A. *Powers of Court to Tribunal and Commissioner and subordinate Officers.*—For the purposes of this Act,—

(1) the Tribunal and the Commissioner shall have the same powers as are vested in Courts in respect of—

(a) proof of facts by affidavits;

(b) summoning and enforcing the attendance of any person and examining him on oath ;

(c) compelling the production of documents ; and

(d) issuing commissions for the examination of witnesses ;

(2) in the case of any affidavit made for the purposes of this Act, any officer appointed by the Tribunal or the Commissioner may administer the oath to the deponent."

12. *Amendment of section 22 of Bom. V of 1946.*—In sub-section (1) of section 22 of the said Act,—

(1) for the words "in like manner" the words "upon application" shall be substituted ;

(2) after the word "Commissioner" where it occurs for the second time the following shall be inserted, namely :—

"Provided that no application under this sub-section shall be entertained if it is not made within a period of sixty days from the date of the order.";

(3) after the word "Provided" the word "further" shall be inserted.

13. *Insertion of new section 22A in Bom. V of 1946.*—After section 22 of the said Act, the following new section shall be inserted, namely :—

"22A *Application of sections 4 and 12 of Limitation Act.*—In computing period of sixty days laid down under sections 21 and 22 the provisions of sections 4 and 12 of the Indian Limitation Act, 1908 (IX of 1908), so far as may be shall apply "

14. *Amendment of section 29 of Bom. V of 1946.*—In sub-section(2) of section 29 of the said Act, after clause (c) the following new clauses shall be inserted, namely :—

"(cc) the circumstances in which and the conditions subject to which the Commissioner may accept a lump sum by way of composition under sub-section (2) of section 6, and the manner of determining such sum ;

(cca) the period for the removal of the goods by, or on behalf of, the person purchasing the goods for the purposes of clause (iii) of Rule I in sub-section (3) of section 6."

15. *Deletion of section 30 of Bom. V of 1946.*—Section 30 of the said

Act shall be deleted.

16. *Amendment of the Schedule to Bom. V of 1946.*—(1) The Schedule to the said Act shall be numbered as Schedule II and before the Schedule so numbered the following new Schedule shall be inserted, namely :—

“SCHEDULE I

(See section 6).

1. (i) Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries.

(ii) Chassis of motor vehicles.

(iii) Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, not being such articles as are ordinarily also used for other purposes than as parts or accessories of motor vehicles.

2. Refrigerators and air-conditioning plants.

3. Wireless reception instruments and apparatus and component parts thereof including all electrical valves, accumulators, amplifiers and loud speakers which are not specially designed for purposes other than wireless reception.

4. Cinematographic, photographic and other cameras, projectors and enlargers; lenses and other parts of and accessories to such cameras, projectors and enlargers, and films, plates, paper and cloth required for use therewith.

5. Binoculars and opera glasses.

6. Perfumery, cosmetics and toilet articles, except soaps and other articles as may be specified by the Provincial Government by notification in the *Official Gazette*.

7. Silk including artificial silk and all silk goods.

8. Fountain pens, stylograph pens and propelling pencils.

9. All clocks, time-pieces and watches, and parts thereof.

10. Pile carpets.

11. Gramophones, radio-gramophones and records.

12. All arms including rifles, revolvers, pistols and ammunition for the same.

13. Jewellery, precious stones, unset precious stones and pearls, real and cultured.”

(2) In Schedule II so numbered.—

(a) against entries 1, 2, 4, 5, 8 and 9 under the heading “Conditions and exceptions subject to which exemptions has been allowed” the following shall be inserted, namely:—

“Except when sold in sealed containers.”;

(b) in entry 10 for the words “annas eight” the words “rupee one” shall be substituted;

(c) for entry 14 the following shall be substituted, namely:—

“14. Fresh milk, whole or separated and milk powder.”;

(d) entry 23 shall be deleted;

(e) in entry 32 after the word “yarn” the words “and caps, towels and handkerchiefs made exclusively from such cloth or yarn” shall be inserted;

(f) entry 33 shall be deleted;

(g) in entry 36 after the word “agency” the words “specified by the Provincial Government by notification in the *Official Gazette*” shall be inserted;

(h) against entries 38, 39 and 40 the words "When sold to *bona fide* students and educational institutions" shall be deleted;

(i) in entry 41 the words "sold by educational institutions" shall be deleted;

(j) for entry 48 the following shall be substituted, namely:—

"48. All edible oils ... Except when sold in sealed containers."

(k) after entry 53 the following new entry shall be added, namely:—

"54. Charakha and such other implements used in the production of hand-spun yarn or hand-woven cloth as may be specified by the Provincial Government by notification in the *Official Gazette*."

17. *Saving*.—All certificates of registration granted under the said Act shall be deemed to be granted under the said Act as herein re-enacted.

THE MUSSALMAN WAKF, BOMBAY PUBLIC TRUSTS REGISTRATION AND PARSİ PUBLIC TRUSTS REGISTRATION (AMENDMENT) ACT, 1947.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 28th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 30th March 1948.

BOMBAY ACT NO. XXV OF 1948.

An Act to repeal the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), it is expedient to repeal the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944 (Bom. X of 1944), and the Mussalman Wakf (Bombay Amendment) Act, 1945 (Bom. XV of 1945), and to re-enact certain provisions of the said Acts; It is hereby enacted as follows:—

1. *Short title*.—This Act may be called the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1947.

2. *Repeal of Bom. X of 1944 and Bom. XV of 1945*.—The Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944 (Bom. X of 1944), and the Mussalman Wakf (Bombay Amendment) Act, 1945 (Bom. XV of 1945), are repealed.

3. *Re-enactment of sections 2 to 4 of Bom. X of 1944*.—Sections 2 to 4 of the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944 (Bom. X of 1944), are re-enacted.

4. *Re-enactment of section 2 of Bom. XV of 1945*.—Section 2 of the Mussalman Wakf (Bombay Amendment) Act, 1945 (Bom. XV of 1945), is re-enacted.

THE BOMBAY PREVENTION OF PROSTITUTION (AMENDMENT) ACT, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 28th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 30th March 1948.

Bombay Act No. XXVI of 1948.

An Act to amend the Bombay Prevention of Prostitution Act, 1923.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Prevention of Prostitution (Amendment) Act, 1943 (Bom. VII of 1943);

AND WHEREAS it is expedient to amend the Bombay Prevention of Prostitution Act, 1923 (Bom. XI of 1923), for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Prevention of Prostitution (Amendment) Act, 1948.

2. *Repeal and re-enactment of Bom. VII of 1943.*—The Bombay Prevention of Prostitution (Amendment) Act, 1943 (Bom. VII of 1943), is hereby repealed and re-enacted.

3. *Amendment of section 2 of Bom. XI of 1923*—In section 2 of the Bombay Prevention of Prostitution Act, 1923 (Bom. XI of 1923) (hereinafter called the said Act),—

(i) to the definition of the expression “brothel” the following shall be added, namely:—

“and includes—

(1) where any house, room or place, or any part thereof is divided into cubicles by any means including cloth or canvass curtains, or wooden, cement, corrugated iron, asbestos or brick partitions and such cubicles are used for the purposes of prostitution, every such cubicle used for such purposes whether by one or by more than one person;

(2) any room or place or any part thereof which is used for the purposes of prostitution, whether by one or by more than one person and the floor area of which is less than one hundred square feet and the cubic area of which is less than one thousand cubic feet;

(3) a self-contained flat used for the purposes of prostitution by more than one person, whether as independent tenants of different rooms or part therein or otherwise.”;

(ii) in the definition of the expression “place of public amusement”,—

(a) after the word “theatre” the word “cinema” shall be inserted; and

(b) for the words “or fencing school” the words “fencing school or dancing school” shall be substituted.

4. *Amendment of section 3 of Bom. XI of 1923.*—In section 3 of the said Act,—

(i) after the words “carnal intercourse” where they occur at both the places the words “or any act of gross indecency” shall be inserted;

(ii) for the words “three months” the words “six months” shall be substituted;

(iii) for the words “one hundred rupees” the words “five hundred rupees or with both” shall be substituted.

5. *Amendment of section 4 of Bom. XI of 1923.*—In section 4 of the said Act,—

(i) after the word “entertainment” the words “Turkish bath, massage establishment, beauty parlour, manicure room, pedicure room, knitting room, embroidery room or other similar place by whatever name or description known” shall be inserted;

(ii) for the words “fine which may extend to one hundred rupees” the words “imprisonment which may extend to three months, or with fine

which may extend to one thousand rupees, or with both" shall be substituted.

6. *Amendment of section 6 of Bom. XI of 1923.*—In section 6 of the said Act, for the words "to become a prostitute" the words "for the purposes of prostitution" shall be substituted.

7. *Amendment of section 7 of Bom. XI of 1923.*—In section 7 of the said Act, for the words "with a view to her becoming a prostitute" the words "whether a prostitute or not, for the purposes of prostitution" shall be substituted.

8. *Amendment of section 8B of Bom. XI of 1923.*—In section 8B of the said Act, for the words "five hundred" the words "one thousand" shall be substituted.

9. *Amendment of marginal note to section 9 of Bom. XI of 1923.*—For the marginal note to section 9 of the said Act, the following shall be substituted, namely:—

"Removal of prostitutes."

10. *Insertion of new section 9B in Bom. XI of 1923.*—After section 9A of the said Act, the following new section shall be inserted, namely:—

"9B. *Common prostitute in vicinity of public places.*—(1) Whoever carries on the business of common prostitute in any premises—

(a) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare over which tramcars run, or

(b) which are notified in this behalf, in Greater Bombay by the Commissioner of Police and elsewhere by the District Magistrate, in the manner prescribed by rules made by the Provincial Government, shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(2) *Punishment for permitting premises to be used for business of common prostitutes.*—Any person who—

(a) being the owner, tenant, lessee, occupier or person in charge of any premises situate as described in clause (a) of notified under clause (b) of sub-section (1) knowingly permits the same or any part thereof to be used for carrying on the business of a common prostitute, or

(b) being the lessor or landlord of any premises so situate or notified, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for carrying on the business of a common prostitute, or is wilfully a party to the continued use of such premises or any part thereof for carrying on the business of a common prostitute,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) *Presumption as to knowledge.*—In all prosecutions under this section against a lessor, landlord or the agent of a lessor or landlord, when any premises or part thereof is proved to have been used for carrying on the business of a common prostitute, it shall be presumed that the premises or part thereof was let with the knowledge that it may be so used unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when it was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute."

The Arnold Marriage Validating (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 28th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 30th March 1948.

Bombay Act No. XXVII of 1948.

An Act to repeal and re-enact the Arnold Marriage Validating Act, 1943.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Arnold Marriage Validating Act, 1943 (Bom. X of 1943); It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Arnold Marriage Validating (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. X of 1943.*—The Arnold Marriage Validating Act, 1943 (Bom. X of 1943), is hereby repealed and re-enacted.

The Bombay Co-operative Societies (Amendment) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 30th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 1st April 1948.

Bombay Act No. XXVIII of 1948.

An Act to amend the Bombay Co-operative Societies Act, 1925.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2) read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Co-operative Societies (Amendment) Act, 1942 (Bom. XXIX of 1942) and the Bombay Co-operative Societies (Amendment) Act, 1943 (Bom. XVI of 1943);

AND WHEREAS it is expedient to amend the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925), for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Co-operative Societies (Amendment) Act, 1948.

2. *Repeal and re-enactment of Bom. XXIX of 1942 and Bom. XVI of 1943.*—The Bombay Co-operative Societies (Amendment) Act, 1942 (Bom. XXIX of 1942), and the Bombay Co-operative Societies (Amendment) Act, 1943 (Bom. XVI of 1943), are hereby repealed and re-enacted.

3. *Amendment of section 3 of Bom. VII of 1925.*—In section 3 of the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925) (hereinafter called the said Act),—

(i) in clause (h) after sub-clause (5) the following new sub-clause shall be inserted, namely:—

“(6) a ‘Federal society’ means a society not less than three-fourths of the members of which are societies.”;

(ii) after the words “Official Gazette” the following new clause shall be inserted, namely:—

“(i) ‘Tribunal’ means the Bombay Co-operative Tribunal constituted under section 63A”.

4. *Substitution of new section for section 5 of Bom. VII of 1925.*—For section 5 of the said Act, the following shall be substituted, namely:—

“5. *Societies which may be registered.*—Subject to the provisions hereinafter contained a society which has as its object the promotion of the eco-

economic interests of its members in accordance with co-operative principles or a society established with the object of facilitating the operations of such a society may be registered under this Act with or without limited liability : Provided that—

(1) unless the Provincial Government by general or special order otherwise directs, the liability of a society of which a member is a society shall be limited ;

(2) the members of a society which has been registered under this Act with unlimited liability such liability not having been changed from unlimited to limited under this Act shall, on its liquidation, be jointly and severally liable for and in respect of all its obligations."

5. *Amendment of section 6 of Bom VII of 1925.*—In section 6 of the said Act, for the words "three thousand" the words "ten thousand" and for the letters and figures "Rs. 10,000" the words "twenty thousand rupees" shall, respectively, be substituted.

6. *Amendment of section 7 of Bom. VII of 1925.*—In sub-section (1) of section 7 of the said Act—

(i) for the words "such persons" the words "all persons forming the society" shall be substituted ;

(ii) the words "caste" shall be deleted ; and

(iii) after the words "occupation" the words, brackets and letters "and no person shall be admitted to the membership of any such society after its registration unless such person fulfills the requirements of clause (a) or (b) as the case may be" shall be inserted.

7. *Amendment of section 8 of Bom. VII of 1925.*—In section 8 of the said Act—

(i) after the words "of a society" the words "or the admission of a person as a member of a society" shall be inserted ; and

(ii) the word "caste" shall be deleted.

8. *Amendment of section 13 of Bom VII of 1925.*—To section 13 of the said Act, the following shall be added, namely :—

" , or
(3) in case of a society which is a member of a federal society, at the instance of an officer of such federal society."

9. *Insertion of new section 15A in Bom. VII of 1925* —After section 15 of the said Act the following new section shall be inserted, namely :—

"15A. *Division of societies.*—(1) Any society may, with the approval of the Registrar, by a resolution passed by a three-fourth majority of the members present at a special general meeting of the society held for the purpose, resolve to divide itself into two or more societies, provided that each member has had fifteen clear days written notice of the resolution and the date of the meeting. The resolution (hereinafter in this section referred to as a preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies in which it is proposed to divide it and may prescribe the area of operation of, and specify the members who will constitute, each of the new societies.

(2) A copy of the preliminary resolution shall be sent to all the members and creditors of the society. A notice of the resolution shall also be given in the prescribed manner to all other persons whose interests will be affected by the division of the society.

(3) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the resolution, intimate his intention not to become a member of any of the new societies.

(4) Any creditor of the society may, notwithstanding any agreement to the contrary by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(5) Any other person whose interests will be affected by the division may by notice given to the society object to the division unless his claim is satisfied.

(6) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society and of the notice by other persons given under sub-section (2), another special general meeting of the society, of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as in the opinion of the Registrar are not material, he may, subject to the provisions of sub-section (9) and section 10, register the new societies and the by-laws thereof. On such registration, the registration of the old society shall be deemed to have been cancelled and the society shall be deemed to be dissolved from the date of such cancellation.

(7) The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(8) At the special general meeting referred to in sub-section (6) provision shall be made by another resolution for—

(i) repayment of the share capital of all the members who have given notice under sub-section (3);

(ii) satisfaction of the claim of all the creditors who have given notice under sub-section (4);

(iii) satisfaction of the claims of such of the other persons who have given notice under sub-section (5) as the Registrar decides or securing their claims in such manner as the Registrar directs:

Provided that no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in sub-section (6).

(9) If within such time as the Registrar considers reasonable, the share capital of the members referred to in sub-section (8) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, or the claims of the other persons are not satisfied or secured as provided in clause (iii) of sub-section (8), the Registrar may refuse to register the new societies.

(10) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882), or the Indian Registration Act, 1908 (XVI of 1908), the registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under sub-section (6).

10. *Insertion of new section 16A in Bom. VII of 1925.*—After section 16 of the said Act, the following new section shall be inserted namely:—

“16A. *Change of liability of society from limited to unlimited or from unlimited to limited.*—(1) A society may, subject to the provisions of section 16, by an amendment of its by-laws, change its liability from limited to unlimited or from unlimited to limited.

(2) No such amendment shall be registered by the Registrar unless he is satisfied—

(i) that sufficient notice has been given to every member of the society and to any person or class of persons whose interest will, in the opinion of the registrar, be effected by the alteration, and

(ii) that with respect to every such member or person who, in the opinion of the Registrar, is entitled to object,—

(a) either his assent has been obtained to the change,

(b) or if he signifies his objection—

(i) he is allowed to withdraw his share if he is a member, or

(ii) his debt or claim has been discharged or has determined or has been secured to the satisfaction of the Registrar within three months from the date of the notice:

Provided that the Registrar may, in the case of any person or class of persons for special reasons, dispense with the notice required by this sub-section”.

11. Amendment of section 18 of Bom. VII of 1925.—In section 18 of the said Act, after sub-section (1) the following new sub-section shall be inserted, namely:—

“(1A) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate shall have the right to vote.”

12. Amendment of section 19 of Bom. VII of 1925.—In sub-section (2) of section 19 of the said Act—

(i) the word “and” at the end of clause (a) shall be deleted; and

(ii) after clause (b) the following shall be inserted, namely:—

“and

(c) the committee has approved such transfer.”

13. Amendment of section 24 of Bom. VII of 1925.—(1) Section 24 of the said Act shall be numbered as sub-section (1) of that section.

(2) In sub-section (1) of section 24 of the said Act so renumbered, the proviso to clause (a) shall be deleted.

(3) After sub-section (1) of section 24 of the said Act so renumbered, the following new sub-sections shall be inserted, namely:—

“(2) No property or interest in property which is subject to a charge under sub-section (1) shall be transferred in any manner, except by way of lease for a term not exceeding ten years without the previous permission of the society.

(3) Notwithstanding anything contained in any law, any transfer made in contravention of the provisions of sub-section (2) shall be void.

(4) Any person who in contravention of the provisions of sub-section (2) transfers any property which is subject to a charge under sub-section (1) shall on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.”

14. Insertion of new section 24AA in Bom. VII of 1925.—After section 24 of the said Act, the following new section shall be inserted, namely:—

“24AA. Charge on immovable property of members borrowing loans from certain societies. —Notwithstanding anything contained in this Act or in any other law for the time being in force—

(i) every application for loan made by a member of a society of which the majority of the members are agriculturists and which is—

(a) a Resource society the primary object of which is to obtain credit for its members; or

(b) any other class of societies specified in this behalf by the Provincial Government by a general or special order

shall be accompanied by a declaration specifying the immovable property on which he agrees to have a charge created for the dues in respect of the loan;

(ii) every member of such society who has borrowed a loan from it before the date of the coming into force of the Bombay Co-operative Societies (Amendment) Act, 1948 (Bom. XXVIII of 1948), shall as soon as possible after such date send a declaration to the society specifying the immovable property on which he agrees to have a charge created for the dues in respect of such loan and no such member shall after such date exercise the right of membership unless and until he has made such declaration;

(iii) a declaration made under clause (i) or (ii) may be varied at any time by a member with the consent of the society in favour of which such charge is created;

(iv) no member shall alienate the whole or any part of the immovable property specified in the declaration made under clause (i) or (ii) until the loan is repaid in full;

Provided that standing crops on any such property may be alienated with the previous permission of the society;

(v) any alienation made in contravention of the provisions of clause (iv) shall be void;

(vi) subject to the prior claims of the Crown in respect of land revenue or any money recoverable as land revenue and to the charge, if any, created under an award made under the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947), there shall be a first charge in favour of the society on the property specified in the declaration made under clause (i) or (ii) for and to the extent of the dues owing by him on account of the loan;

(vii) notwithstanding anything contained in Chapter X-A of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), the Record of Rights maintained under the said chapter shall also include the particulars of every charge on immovable property created under a declaration under clause (i) or (ii)."

15. Amendment of section 26 of Bom. VII of 1925.—In section 26 of the said Act—

(i) after the words "a society or" the words "the share or interest of a member or officer or servant of a society" shall be inserted;

(ii) after the words "such member" the words "officer or servant" shall be inserted.

16. Amendment of section 29 of Bom. VII of 1925—In section 29 of the said Act for the words "one year" the words "two years" shall be substituted.

17. Amendment of section 34 of Bom. VII of 1925.—In section 34 of the said Act—

(i) sub-section (2) shall be deleted;

(ii) in sub-section (3) after the words "money" the words "on the security of moveable property or" shall be inserted.

18. Amendment of section 37 of Bom. VII of 1925.—To clause (e) of section 37 of the said Act the following shall be added, namely:—

"or by general or special order of the Provincial Government."

19. Amendment of section 38 of Bom. VII of 1925—In section 38 of the said Act for the figures "10" the figures "6½" shall be substituted.

20. Insertion of new section 39A in Bom. VII of 1925.—After section 39 of the said Act, the following new section shall be inserted, namely:—

"39A. *Contribution to educational fund of Bombay Provincial Co-operative Institute.*—Every society which pays a dividend to its members at a rate of 4 per cent. or more shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute at such rate as may be prescribed."

21. *Amendment of section 40 of Bom. VII of 1925.*—In section 40 of the said Act, after the words "reserve fund" the words "and contribution, if any, to the educational fund of the Bombay Provincial Co-operative Institute" shall be inserted.

22. *Amendment of section 41 of Bom. VII of 1925.*—In section 41 of the said Act—

(i) after the word "members" where it occurs for the first time the words "or officers or servants" shall be inserted ;

(ii) after the word "members" where it occurs for the second time the words "or officers or servants, as the case may be," shall be inserted.

23. *Amendment of section 42 of Bom. VII of 1925.*—In section 42 of the said Act, for the words "have been made to the reserve fund" the words, figures and letter "and section 39A have been made" shall be substituted.

24. *Insertion of new section 46A in Bom. VII of 1925.*—After section 46 of the said Act, the following new section shall be inserted, namely :—

"46. *Registrar to bring defects disclosed in inquiry or inspection to notice of society.*—(1) If the result of any inquiry held under section 43 or an inspection made under section 44 discloses any defects in the working of a society the Registrar may bring such defects to the notice of the society and if the society is a member of a Federal society to the notice of the Federal society. The Registrar may also make an order directing the society or its officers or the Federal society to take such action as may be specified in the order to remedy the defects within the time specified therein.

(2) The Federal society or the society concerned may appeal against an order made by the Registrar under sub-section (1) to the Provincial Government within the time specified in the order.

(3) The Provincial Government may in deciding the appeal annul, reverse, modify or confirm the order of the Registrar."

25. *Amendment of section 49 of Bom. VII of 1925.*—Section 49 of the said Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) of section 49 so re-numbered the following shall be inserted as a new sub-section, namely :—

"(2) Notwithstanding anything contained in sections 28 and 29, when a society is dissolved under sub-section (1), the liability of a past member and the liability of the estate of a deceased member, as it existed on the date of the dissolution of the society, shall continue until all the liabilities of the society are met."

26. *Amendment of section 50 of Bom. VII of 1925.*—In the proviso to section 50 of the said Act,—

(a) after the words "recovered from" the words "a member or" shall be inserted ; and

(b) after the words "given to such" the words "member or" shall be inserted.

27. *Amendment of section 50A of Bom. VII of 1925.*—In sub-section (1) of section 50A of the said Act—

(i) after the words "in the course of" the words and figures "an audit under section 22 or an inquiry under section 43 or an inspection under section 44 or",

(ii) after the words "on the application of" the words "the officer con-

ducting the audit or holding the inquiry or inspection, or of", and

(iii) after the words "or such person" and the words "after giving reasonable opportunity to the person concerned to submit his explanation," shall, respectively, be inserted.

28. *Amendment of section 54 of Bom. VII of 1925.*—In section 54 of the said Act, after the words "touching the" the words "constitution or" shall be inserted.

29. *Substitution of new section for section 54A of Bom. VII of 1925.*—For section 54A of the said Act, the following shall be substituted, namely :—

"54A. *Tribunal's power to modify, correct or remit award.*—(1) In the case of any award made by the arbitrators under section 54, the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing—

(i) modify the award, or

(ii) set it aside and order that the dispute shall be referred back to the arbitrators in the manner provided under the said section :

Provided that no such order shall be made—

(a) after the issue of a certificate under section 59 for the execution of the award, and

(b) except on any of the following grounds :—

(i) an objection to the legality of the award is apparent on the face of it, or

(ii) the award has been vitiated in consequence of corruption or misconduct on the part of any of the arbitrators, or

(iii) the award is in any way perverse.

(2) In making an order under sub-section (1) that the dispute shall be referred back to arbitration, the Tribunal may direct that all or any of the arbitrators who made the award shall not act again as arbitrators for deciding the dispute.

(3) Where a dispute is referred back to arbitration under sub-section (1), the arbitrators shall make a fresh award within such time as may be fixed by the Tribunal. If the arbitrators fail to make a fresh award within the time so fixed, the Registrar or his nominee shall decide the dispute.

(4) When the award is made by the arbitrators under sub-section (3), the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing—

(i) modify the award, or

(ii) pass such order thereon as it deems just.

To such modification or order the proviso to sub-section (1) shall apply."

30. *Substitution of new section for section 56 of Bom. VII of 1925.*—For section 56 of the said Act, the following shall be substituted, namely :—

"56 *Appeal against decision of Registrar and his nominee.*—Any party aggrieved by any decision of the Registrar or his nominee under section 54 or sub-section (3) of section 54A or an order passed under section 55 by the Registrar or his nominee or arbitrator may, within one month from the date of the decision or order, appeal to the Tribunal."

31. *Amendment of section 57 of Bom. VII of 1925.*—In section 57 of the said Act, the first sentence shall be deleted.

32. *Amendment of section 59 of Bom. VII of 1925.*—In sub-section (1) of section 59 of the said Act,—

(i) after the figures "50" where they occur for the first time, the words, figures, letter and brackets "or by the Registrar under sub-section (1) of section 50A" shall be inserted;

(ii) after the figures "56" the words, figures, letter and brackets "every order passed in revision under sub-section (6) of section 63A" shall be inserted;

(iii) for the words, figures, letter and brackets "sections 50, 54 or sub-section (3) of section 54A" the word and figures "section 50" shall be substituted.

33. Insertion of new section 59AA in Bom. VII of 1925.—After section 59 of the said Act, the following new section shall be inserted, namely:—

"59AA. *Private transfer of property made after issue of certificate void against society.*—Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator or Assistant Registrar, as the case may be, under section 59 shall be null and void as against the society on whose application the said certificate was issued."

34. Amendment of section 59A of Bom. VII of 1925.—In sub-section (2) of section 59A of the said Act, the proviso shall be deleted.

35. Amendment of section 59B of Bom. VII of 1925.—In section 59B of the said Act,—

(i) in sub-section (1) after the word "members" the words "or by a resource society for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance" shall be inserted;

(ii) in sub-section (3) after the word "bank" the words "or the resource society" shall be inserted;

(iii) in the Explanation,

(a) after the word "section" the figure and brackets "(1)" shall be inserted;

(b) after the words "that bank" the following shall be inserted, namely:—

"(2) 'financing of crops' and 'seasonal finance' shall have the meanings given to them by the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947)."

36. Insertion of new section 60A in Bom. VII of 1925.—After section 60 of the said Act, the following new section shall be inserted, namely:—

"60A. *Penalty for officer sanctioning benami loans.*—Any officer of a society who wilfully recommends or sanctions, for his own personal use or benefit, loans in the name of any other person shall, on conviction, be punishable with fine which may extend to five hundred rupees."

37. Insertion of new section 63A in Bom. VII of 1925.—In Chapter X of the said Act at the beginning, the following new section shall be inserted, namely:—

"63A. *Bombay Co-operative Tribunal.*—(1) The Provincial Government shall constitute a Tribunal, called the Bombay Co-operative Tribunal, to exercise the functions conferred on the Tribunal by or under this Act.

(2) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

(3) Any vacancy in the membership of the Tribunal shall be filled by the Provincial Government.

(4) Subject to the previous sanction of the Provincial Government the Tribunal shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4) shall be published in the *Official Gazette*.

(6) The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as to it may seem fit.

(7) An order passed in appeal, or in revision under sub-section (6), by the Tribunal shall be final and conclusive and shall not be liable to be called in question in any civil or revenue court."

38. *Amendment of section 64 of Bom. VII of 1925.*—In section 64 of the said Act, the figures, words, brackets and letter "54, or sub-section (3) of section 54A" shall be deleted.

39. *Amendment of section 64A of Bom. VII of 1925.*—In section 64A of the said Act, after the words "subordinate to them" the words "except those referred to in sub-section (6) of section 63A" shall be inserted.

40. *Amendment of Chapter XI of Bom. VII of 1925.*—In Chapter XI of the said Act, in the heading for the words "Crop Protection Societies" the words "Better Farming Societies" shall be substituted and for the words "Crop Protection Society" wherever they occur the words "Better Farming Society" shall be substituted.

41. *Substitution of new section for section 64B of Bom. VII of 1925.*—For section 64B of the said Act, the following shall be substituted, namely:—

"64B. *Application of this Chapter.*—This Chapter shall apply to Better Farming Societies:

Provided that the Provincial Government may, by general or special order, direct that the provisions of this Chapter shall also apply to any other class of societies and thereupon they shall apply as if such societies were Better Farming Societies."

42. *Amendment of section 64C of Bom. VII of 1925.*—For clause (b) of section 64C of the said Act, the following shall be substituted, namely:—

"(b) 'Better Farming Society' means a society formed with the object of promoting development of land and better methods of cultivation by means of improved seed, manure, irrigation, bunding, tractor ploughing, gully plugging, soil conservation and includes a Joint Farming Society, a Co-operative Farming Society and a Crop Protection Society."

43. *Amendment of section 64F of Bom. VII of 1925.*—In sub-section (1) of section 64F of the said Act, for the words "crop protection scheme" the words "better farming scheme" shall be substituted.

44. *Amendment of section 64G of Bom. VII of 1925.*—In section 64G of the said Act, for the words and figures "owing in aggregate not less than 75 per cent" the words and figures "in possession of not less than 75 per cent. in aggregate" shall be substituted.

45. *Amendment of section 71 of Bom. VII of 1925.*—In sub-section (2) of section 71 of the said Act—

(1) after clause (g) the following new clause shall be inserted, namely:—

"(ga) prescribe the manner of giving notice of the preliminary resolution under sub-section (2) of section 15A;" ;

(2) after clause (n) the following new clause shall be inserted, namely:—

"(na) prescribe the rate at which a society shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute;" ;

(3) after clause (q) the following new clause shall be inserted, namely :—

“(qa) prescribe the qualifications of the members of the Tribunal ;”.

The Bombay Land Improvement Schemes (Repeal and Re-enactment) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 30th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 1st April 1948.

Bombay Act No. XXIX of 1948.

An Act to repeal and re-enact the Bombay Land Improvement Schemes Act, 1942, the Bombay Land Improvement Schemes (Amendment) Act, 1944 and the Bombay Land Improvement Schemes (Amendment) Act, 1945.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935 (26 Geo. 5, Ch. 2), read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Land Improvement Schemes Act, 1942 (Bom. XXVIII of 1942), the Bombay Land Improvement Schemes (Amendment) Act, 1944 (Bom. III of 1944), and the Bombay Land Improvement Schemes (Amendment) Act, 1945 (Bom. VII of 1945); It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Land Improvement Schemes (Repeal and Re-enactment) Act, 1948.

2. *Repeal and re-enactment of Bom. XXVIII of 1942, Bom. III of 1944 and Bom. VII of 1945.*—The Bombay Land Improvement Schemes Act, 1942 (Bom. XXVIII of 1942), the Bombay Land Improvement Schemes (Amendment) Act, 1944 (Bom. III of 1944), and the Bombay Land Improvement Schemes (Amendment) Act, 1945 (Bom. VII of 1945), are repealed and re-enacted.

The Bombay Public Security Measures (Second Amendment) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 7th April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 8th April 1948.

Bombay Act No. XXX of 1948.

An Act to amend the Bombay Public Security Measures Act, 1947.

WHEREAS it is expedient to amend the Bombay Public Security Measures Act, 1947 (Bom. VII of 1947), for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Public Security Measures (Second Amendment) Act, 1948.

2. *Amendment of section 1 of Bom. VII of 1947.*—In sub-section (3) of section 1 of the Bombay Public Security Measures Act, 1947 (Bom. VII of 1947) (hereinafter called the said Act), for the word “two” the word “three” shall be substituted.

3. *Amendment of section 2 of Bom. VII of 1947.*—In section 2 of the said Act,—

(i) before sub-section (1) the following new sub-section shall be inserted, namely :—

“(A1) Any police officer not below the rank of the Superintendent of Police in Greater Bombay or the Deputy Superintendent of Police elsewhere,

authorised in this behalf by the Provincial Government by general or special order may, if he is satisfied that any person is acting or is likely to act in a manner prejudicial to the public safety, the maintenance of public order or the tranquillity of the Province or any part thereof, arrest or cause to be arrested such person without warrant and direct that he shall be committed to such custody as such officer may deem fit for a period not exceeding fifteen days; and such police officer shall forthwith report the fact of such arrest to the Provincial Government.”;

(ii) in sub-section (1) for the words “is acting” the words, brackets, letter and figures “including a person arrested under sub-section (A1), was acting, is acting or is likely to act” shall be substituted;

(iii) after sub-section (2) the following new sub-section shall be inserted, namely:—

“(2A) When any person is detained under an order made under clause (a) of sub-section (1), the Provincial Government may, notwithstanding anything contained in sub-section (1), in lieu of such order make any such order as is described in clause (b), (c) or (d) of the said sub-section.”

4. *Amendment of section 3 of Bom. VI of 1947.*—In section 3 of the said Act,—

(a) for the words “shall, as soon as may be, communicate to the person affected by the order” the words “may, upon application by the person affected by the order, communicate to him” shall be substituted;

(b) the word “other” shall be deleted;

(c) for the words “inform him of his right to make such representation and afford him the earliest opportunity of doing so” the words “afford him the earliest opportunity of making such representation” shall be substituted.

5. *Insertion of new sections 9A and 9B in Bom. VI of 1947.*—After section 9 of the said Act, the following shall be inserted, namely:—

“IV-A Control of Publications, etc.

9A. *Control of publications, etc.*—(1) If the Provincial Government is satisfied that such action is necessary for the purpose of preventing any activity prejudicial to the public safety, the maintenance of public order or the tranquillity of the Province or any part thereof, the Provincial Government may,—

(a) by order in writing prohibit either absolutely or for a specified period the bringing into, or sale or distribution or circulation within, the Province of any newspaper, periodical, book or document specified in the order;

(b) by an order in writing addressed to any printer, publisher or editor or generally to all printers, publishers or editors or to such class of printers, publishers or editors as may be specified therein—

(i) prohibit either absolutely or for a specified period the printing or publication of any matter relating to a particular subject or class of subjects in any particular issue or issues of a newspaper or periodical or in any book or in any other document whatsoever;

(ii) require that any matter relating to or arising out of any matter published in any previous issue of any newspaper or periodical be published in any particular issue of such newspaper or periodical in such manner as may be specified in the order;

(iii) require that any matter relating to a particular subject or class of subjects shall be submitted before publication for scrutiny to an officer specified in the order;

(iv) prohibit either absolutely or for a specified period the publication of any newspaper, periodical, book or any other document whatsoever or the use of any press.

(2) The officer referred to in sub-section (iii) of clause (b) of sub-section (1) may, after scrutiny of the matter, issue a direction either prohibiting its publication or permitting its publication with such modifications as he may deem necessary.

(3) If any person contravenes any order or direction made under this section, he shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(4) Where it appears to the Provincial Government that an order or direction made under this section is contravened, the Provincial Government may, without prejudice to the penalty prescribed in sub-section (3), direct that any copy wherever found of the newspaper or periodical or any issue thereof, or book or other document, in respect of which the order or direction appears to have been contravened or any printing press or other instrument or apparatus used in the printing or production of any such newspaper, periodical, book or document shall be seized and detained.

IV-B. Control of Commodities, etc.

9B. *Control of commodities, etc.*—(1) If, in the opinion of the Provincial Government, it is essential for the purposes of public safety, the maintenance of public order or the tranquillity of the Province or any part thereof, to restrict the removal of any commodity, article or thing from the Province or such part, the Provincial Government may, by a general or special order, direct that no person shall remove such commodity, article or thing from the Province or such part without the permission in writing in Greater Bombay of the Commissioner of Police for Greater Bombay and elsewhere of the District Magistrate.

(2) If any person contravenes any order made under sub-section (1), he shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine or with both."

6. *Amendment of section 21 of Bom. VI of 1947.*—In section 21 of the said Act, for the words "not lower in rank than a Deputy Commissioner of Police in Greater Bombay, or the District Magistrate, or Additional District Magistrate elsewhere" the words "not being in the opinion of the Provincial Government below the rank of a Deputy Commissioner of Police or a District Magistrate" shall be substituted.

The Bombay Building (Control on Erection) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor on the 9th April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 10th April 1948.

Bombay Act No. XXXI of 1948.

An Act to provide for the control on erection and re-erection of building in the Province of Bombay.

WHEREAS with a view to providing better housing accommodation and securing economic and orderly building development, it is necessary to provide for the control on the erection and re-erection of buildings in the Province of Bombay and for certain other purposes; It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Bombay Building (Control on Erection) Act, 1948.

(2) It extends to the areas specified in the Schedule.

(3) The Provincial Government may, by notification in the *Official Gazette*, direct that it shall also extend to any other area specified in such notification. The Provincial Government may further direct in such notification that it shall apply only in respect of buildings intended to be used for such purposes as may be specified in the notification.

2. *Definitions.*—In this Act, unless there is anything repugnant to the subject or context,—

(i) “building” means a house, out-house, stable, shed, hut and every other structure involving use of bricks, cement, asbestos cement sheets, iron, steel or any other material which the Provincial Government may by notification in the *Official Gazette* specify.

Explanation.—Use of iron or steel by way of nails or screws or for doors, windows and fastenings shall not be deemed to be use of iron or steel within the meaning of this definition ;

(ii) “Controller” means the person appointed as such under section 3 ;

(iii) “erection or re-erection of a building” includes any alteration to, or enlargement of, or addition to, any building ; and the expression “erect or re-erect a building” shall be construed accordingly ;

(iv) “prescribed” means prescribed by rules made under this Act ;

(v) “tenement” means a separate and self-contained set of rooms constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally.

3. *Appointment of Controllers of Buildings.*—The Provincial Government may, by notification in the *Official Gazette*, appoint for any area one or more persons to be the Controllers of Buildings for the purposes of this Act.

4. *Application for permission to erect or re-erect building or to continue to erect or re-erect building*—(1) Every person desiring to commence the work of erection or re-erection of a building or to continue the work of erection or re-erection of a building commenced before the date on which this Act has come into force shall make an application in writing to the Controller for permission to do so. The application shall be in such form and contain such information in respect of the building to which the application relates as may be prescribed.

(2) On receipt of such application the Controller, after making such enquiry as he considers necessary, shall, by order in writing either—

(a) grant the permission subject to such conditions, if any, as may be specified in the order ; or

(b) refuse to grant such permission :

Provided that the Controller shall not refuse to grant such permission if he is satisfied that the erection or re-erection is of a building intended for a residential purpose and consisting of one or more tenements each with a floor area not exceeding 800 square feet.

Explanation—For the purposes of this sub-section “floor area” does not include the area of a bath-room, lavatory, open verandah, passage or balcony or the area covered by walls.

(3) If at the expiration of a period of one month after an application under sub-section (1) has been received by the Controller no order in writing has been passed by the Controller permission shall be deemed to have been granted without the imposition of any condition.

5. *Revocation or modification of permission by Provincial Government.*—

The Provincial Government may, at any time, make an order in writing for reasons which it considers sufficient and which shall be stated in such order; revoking the permission granted by the Controller under sub-section (2) of section 4 or modifying the conditions subject to which such permission was granted by him.

6. *Right of appeal.*—(1) Any person aggrieved by an order of the Controller under sub-section (2) of section 4 may, within thirty days from the date of the communication of such order to him, prefer an appeal to the Provincial Government.

(2) The order of the Provincial Government on appeal shall be final.

7. *Bar of Compensation.*—No compensation shall be claimed by any person for any damage or loss sustained by him in consequence of—

(a) any order of the Controller under sub-section (2) of section 4; or

(b) any order passed by the Provincial Government under section 5 or 6; or

(c) anything which is in good faith done or intended to be done under this Act.

8. *Saving of other enactments.*—Nothing in this Act shall affect the power of any authority to impose restrictions upon the erection or re-erection of a building under any other enactment for the time being in force.

9 *Penalties*—(1) No work of erection or re-erection of a building shall be commenced, continued or carried out without the permission of the Controller granted under section 4 or after such permission is revoked under section 5 or in contravention of any conditions imposed by an order under section 4, 5 or 6.

(2) Where any work of erection or re-erection of a building is commenced, continued or carried out in contravention of sub-section (1), the person at whose expense the work of erection or re-erection of the building is commenced, continued or carried out and (where he is not the same person) the person undertaking the commencement, continuance or carrying out of such work and (in either case) any architect, engineer or other person employed in an advisory or supervisory capacity in the commencement, continuance or carrying out of such work shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to Rs 1,000 or with both.

(3) Any court trying an offence under sub-section (2) may order the forfeiture to His Majesty of all materials which the court is satisfied were collected, purchased or otherwise obtained for the work of erection or re-erection.

10. *Offence by companies, etc.*—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent, or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable to the punishment provided for the offence.

11. *Power of entry, etc.*—(1) Any person not below the rank of a Gazetted Officer authorised in this behalf by the Provincial Government by general or special order may—

(a) enter and inspect any land on which he has reason to believe that that the work of erection or re-erection of a building is being commenced, continued or carried out in contravention of the provisions of this Act;

(b) ask of any person such questions as he deems necessary for carrying out the purposes of this Act ;

(c) ask any person at whose expense the work of erection or re-erection is commenced, continued or carried out or any person engaged in the carrying out of such work to produce or furnish such books or documents or other information being documents or information in his possession, relating to such work ;

(d) seize any materials which he has reason to believe have been collected, purchased or otherwise obtained for the work of erection or re-erection of a building in contravention of the provisions of this Act and subject to the provisions of sub-section (3) of section 9 dispose of them in the prescribed manner.

(2) Whoever voluntarily obstructs any person authorised under sub-section (1), in the exercise of any powers conferred by that sub-section or refuses to answer or wilfully gives a false answer to any question asked of him or refuses to produce or furnish any books, documents or other information as required under the said sub-section shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

12. *Protection of persons acting under this Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

13. *Savings.*—Nothing in this Act shall apply to—

(a) alterations in a building not involving increase in the existing plinth area or roof area or in the total height of the building ;

(b) re-erection of a dilapidated part of a building not involving re-erection of the whole building or, in the case of a storeyed building, of the whole storey ;

(c) machinery foundations, furnaces, fire-places, flues, chimneys, washing-places, drainage lines, latrines, urinals, septic tanks or manholes and inspection chambers for drains ;

(d) storage tanks or wells ;

(e) boundary walls, compound walls and fencings ;

(f) the erection or re-erection of a building —

(i) which is undertaken or carried out on behalf of the Government or a local authority or in pursuance of a contract with the Government or a local authority, or

(ii) the cost of which, or any part of the cost of which, the Government or a local authority has agreed to pay.

14. *Power to make rules.*—(1) The Provincial Government may, by notification in the *Official Gazette*, make rules to carry into effect the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the form of application and the information to be supplied under sub-section (1) of section 4 ;

(ii) the manner in which persons authorized under sub-section (1) of section 11 shall exercise their powers and dispose of the materials seized under clause (d) of the said sub-section.

15. *Repeal.*—(1) The Bombay Building (Control on Erection) Ordinance, 1948 (Bom. Ordinance No. 1 of 1948), is hereby repealed ; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay

General Clauses Act, 1904 (Bom. I of 1904), shall apply to the repeal as if that Ordinance were an enactment.

(2) Notwithstanding the repeal of the said Ordinance, any application made under sub-section (1) of section 4 of that Ordinance prior to the commencement of this Act shall be deemed to have been made under the corresponding provision of this Act :

Provided that the period of one month mentioned in sub-section (3) of section 4 of this Act shall be deemed to commence and run from the date on which such application was received by the Controller.

Schedule.

1. The City of Bombay.
2. The Bombay Suburban District.
3. The Thana Taluka of the Thana District.
4. The Kalyan Municipal Borough.
5. The Ahmedabad Municipal Borough.
6. The Ahmedabad Cantonment.

The Code of Criminal Procedure (Bombay Amendment) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 3rd April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 10th April 1948.

Bombay Act No. XXXII of 1948.

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898 (V of 1898), in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1948.

(2) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

2. *Amendment of section 7 of Act V of 1898.*—In section 7 of the Code of Criminal Procedure, 1898 (V of 1898) (hereinafter called the said Code),—

(a) in sub-section (1), the brackets and words “(excluding the presidency-towns)” shall be deleted ; and

(b) after sub-section (1), the following new sub-section shall be inserted, namely :—

“(1A) *Greater Bombay to be sessions division.*—For the purposes of this Code, Greater Bombay shall be a sessions division.”

3. *Amendment of heading “C” in Chapter II of Act V of 1898.*—In Chapter II of the said Code, for the heading “C—Courts and Offices outside the Presidency-towns” the heading “C—Court of Session for Greater Bombay and Courts and Offices outside Greater Bombay” shall be substituted.

4. *Amendment of section 267 of Act V of 1898.*—In the marginal note of section 267 of the said Code after the words “High Court” and in section 267 of the said Code after the words “High Court” where they occur for the first time, the words “or the Court of Session for Greater Bombay” shall be inserted.

5. *Amendment of section 268 of Act V of 1898.*—In section 268 of the

said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted.

6. *Amendment of section 269 of Act V of 1898.*—In sub-section (1) of section 269 of the said Code, after the words "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

7. *Amendment of section 274 of Act V of 1898.*—In section 274 of the said Code,—

(a) in sub-section (1), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(b) in sub-section (2), for the words "before the Court" the words "before any other Court" shall be substituted.

8. *Amendment of section 276 of Act V of 1898.*—In section 276 of the said Code in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted.

9. *Amendment of section 277 of Act V of 1898.*—In sub-section (2) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

10. *Amendment of section 296 of Act V of 1898.*—In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

11. *Amendment of section 305 of Act V of 1898.*—In the marginal note of section 305 and in sub-section (1) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

12. *Amendment of section 306 of Act V of 1898.*—In sub-section (1) of section 306 of the said Code after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

13. *Amendment of heading "J" in Chapter XXIII of Act V of 1898.*—In Chapter XXIII of the said Code, in the heading "J"—

(a) after the words "High Court" the words "and the Court of Session for Greater Bombay" shall be inserted; and

(b) for the words "that Court" the words "such Courts" shall be substituted

14. *Amendment of section 312 of Act V of 1898.*—In section 312 of the said Code, after the word "list" the words "for the High Court and the Court of Session for Greater Bombay" shall be inserted.

15. *Amendment of section 315 of Act V of 1898.*—In section 315 of the said Code, for the words "in the town which is the usual place of sitting of each High Court" the words "of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay" shall be substituted.

16. *Amendment of heading "K" in Chapter XXIII of Act V of 1898.*—In Chapter XXIII of the said Code in the heading "K", after the words "Court of Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

17. *Amendment of heading "L" in Chapter XXIII of Act V of 1898.*—In Chapter XXIII of the said Code in the heading "L" after the words "High Courts" the words "and the Court of Session for Greater Bombay" shall be inserted.

18. *Amendment of section 333 of Act V of 1898.*—In section 333 of the said Code, after the words "before a High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

19. *Amendment of sections 354 and 356 of Act V of 1898.*—In the marginal notes of sections 354 and 356, the words “outside presidency-towns” shall be deleted.

20. *Amendment of section 373 of Act V of 1898.*—For the marginal note to section 373 of the said Code the marginal note “Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police” shall be substituted and to section 373 of the said Code, the following proviso shall be added, namely :—

“Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay.”

21. *Amendment of section 413 of Act V of 1898.*—In section 413 of the said Code,—

(a) after the words “High Court” the words “or the Court of Session for Greater Bombay” shall be inserted ;

(b) for the words “a Court of Session” where they occur for the first time the words “any other Court of Session” shall be substituted ; and

(c) after the words “Court of Session” where they occur for the second time the words “other than that for Greater Bombay” shall be inserted.

22. *Amendment of section 435 of Act V of 1898.*—In sub-section (1) of section 435 of the said Code, after the words “any Sessions Judge” the words “other than the Sessions Judge of the Court of Session for Greater Bombay” shall be inserted.

23. *Amendment of section 436 of Act V of 1898.*—In section 436 of the said Code, after the words “Sessions Judge” the words “other than the Sessions Judge of the Court of Session for Greater Bombay” shall be inserted.

24. *Amendment of section 437 of Act V of 1898.*—In section 437 of the said Code, after the words “Sessions Judge” where they occur for the first time the words “other than the Sessions Judge of the Court of Session for Greater Bombay” shall be inserted.

25. *Amendment of section 438 of Act V of 1898.*—In sub-section (1) of section 438 of the said Code, after the words “Sessions Judge” the words “other than the Sessions Judge of the Court of Session for Greater Bombay” shall be inserted.

26. *Amendment of section 449 of Act V of 1898.*—In sub-section (1) of section 449 of the said Code, after clause (c) the following shall be inserted, namely :—

or,

(d) a case is tried by jury in the Court of Session for Greater Bombay, which if it had been tried outside a Presidency-town, have been triable under the provisions of this Chapter,”.

27. *Amendment of section 554 of Act V of 1898.*—In section 554 of the said Code, after sub-section (1) the following new sub-section shall be inserted, namely :—

“(1A) *Power of High Court of Bombay to make rules for Court of session for Greater Bombay.*—With the previous sanction of the Provincial Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay.”

28. *Amendment of form No. XXVIII of Schedule V to Act V of 1898.*—In form No. XXVIII—Charges—in Schedule V to the said Code, the brackets and words “[when the charge is framed by a Presidency Magistrate, for Court of Session substitute High Court]” shall be deleted.

29. *Transitory provision.*—Nothing in this Act shall affect any case, appeal or proceeding pending in the High Court on the date this Act comes into force and every such case, appeal or proceeding shall be tried, heard and disposed of as if this Act had not been passed.

The Bombay Land Requisition Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 11th April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 11th April 1948.

Bombay Act No. XXXIII of 1948.

An Act to provide for the requisition of land for the continuance of requisition of land and for certain other purposes.

WHEREAS the Governor-General, in exercise of the powers conferred on him by section 104 of the Government of India Act, 1935 (26 Geo. 5 Ch. 2), has, by the Government of India, Ministry of Law, Notification No. F. 311/47-C & G, dated the 21st October 1947, empowered all Provincial Legislatures to enact laws with respect to the requisition of land;

AND WHEREAS it is expedient to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes; It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Bombay Land Requisition Act, 1948.

2. *Extent.*—(1) This Act shall extend to the areas specified in the Schedule hereto annexed and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(2) The Provincial Government may, by notification in the *Official Gazette*, extend any or all of the provisions of this Act to any other area and on such date as may be specified in the notification.

(3) The Provincial Government may, at any time by like notification, direct that any or all of the provisions of this Act shall cease to extend to any area and on such date as may be specified in the notification; and on that date the said provisions shall cease to be in force in such area.

3. *Duration.*—(1) This Act shall remain in force up to and inclusive of the 31st day of March 1950:

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

(2) Section 7 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

4. *Definitions.*—In this Act, unless there is anything repugnant to the subject or context,—

(1) “land” includes benefits to arise out of land, and buildings and all things attached to the earth or permanently fastened to the buildings or things attached to the earth;

(2) “landlord” means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person, not being a tenant, who from

time to time derives title under a landlord ; and further includes in respect of his sub-tenant a tenant who has sublet any premises ;

(3) "premises" means any building or part of a building let or intended to be let separately including—

(i) the garden, ground, garages and out-houses, if any, appurtenant to such building or part of a building,

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house ;

(4) "prescribed" means prescribed by rules made under this Act ;

(5) "to requisition" means in relation to any land to take possession of the land or to require the land to be placed at the disposal of the Provincial Government.

5. *Requisition of land.*—(1) If in the opinion of the Provincial Government it is necessary or expedient so to do, the Provincial Government may by order in writing requisition any land for any purpose :

Provided that no building or part thereof wherein the owner, the landlord or the tenant, as the case may be, has actually resided for a continuous period of six months immediately preceding the date of the order shall be requisitioned under this section.

(2) Where any building or part thereof is to be requisitioned under sub-section (1), the Provincial Government shall make such enquiry as it deems fit and make a declaration in the order of requisition that the owner, the landlord or the tenant, as the case may be, has not actually resided therein for a continuous period of six months immediately preceding the date of the order and such declaration shall be conclusive evidence that the owner, landlord or tenant has not so resided.

6. *Requisition of vacant premises.*—(1) If any premises situate in an area specified by the Provincial Government by notification in the *Official Gazette* are vacant on the date of such notification and whenever any such premises are vacant or become vacant after such date by reason of the landlord, the tenant, or the sub-tenant, as the case may be, ceasing to occupy the premises or by reason of the release of the premises from requisition or by reason of the premises being newly erected or reconstructed or for any other reason, the landlord of such premises shall give intimation thereof in the prescribed form to an officer authorised in this behalf by the Provincial Government.

(2) The intimation shall be given by post within one month of the date of the notification in the case of premises which are vacant on such date and in other cases within seven days of the premises becoming vacant or becoming available for occupation.

(3) A landlord shall not, without the permission of the Provincial Government, let, occupy, or permit to be occupied such premises before giving the intimation and for a period of one month from the date on which the intimation is received.

(4) Whether or not an intimation under sub-section (1) is given and notwithstanding anything contained in section 5, the Provincial Government may, by order in writing—

(a) requisition the premises and may use or deal with the premises in such manner as may appear to it to be expedient ; or

(b) require the landlord to let the premises to specified persons or class of persons or in specified circumstances :

Provided that where an order is to be made under clause (a) or (b) requisitioning or requiring to let premises in respect of which no intimation is given by the landlord, the Provincial Government shall make such inquiry as it deems fit and make a declaration in the order that the premises were vacant or had become vacant, on or after the date referred to in sub-section (1) and such declaration shall be conclusive evidence that the premises were or had so become vacant :

Provided further that no order under clause (b) shall be made without hearing the landlord if the landlord resides in the building of which the premises form a part.

(5) Any landlord who fails to give such intimation within the period specified in sub-section (2) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both and any landlord who lets, occupies or permits to be occupied the premises in contravention of the provisions of sub-section (3), shall, on conviction, be punished with imprisonment for a term which may extend to one year and shall also be punished with fine.

Explanation.—For the purposes of this section,—

(a) premises which are in the occupation of the landlord, the tenant or the sub-tenant, as the case may be, shall be deemed to be or become vacant when such landlord ceases to be in occupation or when such tenant or sub-tenant ceases to be in occupation upon termination of his tenancy, eviction, assignment, or transfer in any other manner of his interest in the premises or otherwise, notwithstanding any instrument or occupation by any other person prior to the date when such landlord, tenant or sub-tenant so ceases to be in occupation ;

(b) premises newly erected or re-constructed shall be deemed to be or become vacant until they are first occupied after such erection or re-construction.

7. Continuance of requisition.—(1) Notwithstanding anything contained in the Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), the Provincial Government may, by order in writing, direct that any land which was continued under requisition under the said Act, shall continue to be subject to requisition under this Act when it is released from requisition under the said Act or ceases to be subject to requisition for any reason ; and the Provincial Government may use or deal with the land so continued to be subject to requisition in such manner as may appear to it to be expedient.

(2) In respect of the continued subjection of the land to requisition under sub-section (1) compensation shall be determined and paid in accordance with the provisions of this Act and of the rules made thereunder :

Provided that all agreements and awards made in relation to the land in respect of the payment of compensation for the period before it was continued to be subject to requisition under sub-section (1) shall continue to be in force and shall apply to the payment of compensation for the period of requisition under this Act.

8. Payment of compensation—(1) When any land is requisitioned or is continued to be subject to requisition under this Act, there shall be paid, subject to the provisions of section 7, compensation to persons having interest in such land the amount of which shall be determined by an officer authorised in this behalf by the Provincial Government who shall hold an inquiry in the manner prescribed. The officer shall determine such amount of compensation as he deems just having regard to all the circumstances of the case; and in particular he shall be guided by the

provisions of sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894 (1 of 1894), in so far as they can be made applicable.

(2) Where there are several persons interested in the land, the officer shall decide the dispute, if any, as to the apportionment of the amount of compensation or any part thereof or as to the persons to whom the same or any part thereof is payable.

(3) An appeal shall lie against the decision of the officer under sub-section (1) or (2), except in cases where the total amount of compensation in respect of the land does not exceed an amount prescribed in this behalf by the Provincial Government,—

(a) in Greater Bombay, to the High Court, and

(b) elsewhere, to the District Court.

Such appeal shall be made within a period of sixty days from the date of the decision.

(4) No further appeal shall lie against any decision in appeal under sub-section (3).

9. *Release from requisition.*—(1) The Provincial Government may, at any time, release from requisition any land requisitioned or continued to be subject to requisition under this Act.

(2) (a) Upon such release the land shall be restored as far as possible in the same condition in which it was on the date on which the Provincial Government was put in possession thereof, and the Provincial Government shall pay compensation for deterioration, if any, caused to the land otherwise than by reasonable wear and tear or irresistible force :

Provided that nothing in this sub-section shall apply to any structures, trees or crops standing on the land on the date on which the Provincial Government took possession thereof and in respect of which compensation has been paid.

(b) The officer authorised in this behalf by the Provincial Government shall determine such amount of compensation as he deems just and his decision, subject to an appeal to the Provincial Government, shall be final. Such appeal shall be made within a period of thirty days from the date of the decision.

(3) When any land is to be released from requisition, the Provincial Government may, after making such inquiry, if any, as it deems fit, specify by order in writing the person to whom possession of the land shall be given.

(4) The delivery of possession of the land to the person specified in an order made under sub-section (3) shall be a full discharge of the Provincial Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(5) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the Provincial Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall publish the notice in the *Official Gazette*.

(6) When a notice referred to in sub-section (5) is published in the *Official Gazette*, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof ; and the

Provincial Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

(7) For the purpose of releasing any land from requisition; the Provincial Government may, by order, direct the person to whom the Provincial Government had given possession of such land and other person, if any, in occupation of such land to deliver possession thereof to the officer authorised in this behalf by the Provincial Government.

10. Powers of inquiry.—For the purposes of holding an inquiry under section 8 the authorised officer shall have the same powers as are vested in civil courts in respect of—

- (a) proof of facts by affidavits,
- (b) summoning and enforcing the attendance of any person and examining him on oath,
- (c) compelling the production of documents, and
- (d) issuing commissions for the examination of witnesses.

11. Power to take possession.—(1) Any officer authorised in this behalf by the Provincial Government by a general or special order may take possession of any land in respect of which an order has been made under section 5 or 6 or sub-section (7) of section 9 and may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for taking possession of such land.

(2) The Provincial Government may, after giving 15 clear days' notice to the person from whom possession of the land has been taken under sub-section (1), remove or cause to be removed or dispose of by public auction any property remaining on such land.

(3) Where property is sold under sub-section (2), the sale proceeds shall, after deducting the expense of sale, be paid to such person or persons who may appear to the Provincial Government to be entitled to the same.

12. Power to obtain information.—(1) Any officer authorised in this behalf by the Provincial Government by a general or special order may, with a view to carrying out the purposes of this Act, by order require any person to furnish to him such information in such person's possession relating to any land which is requisitioned or is continued under requisition or is intended to be requisitioned or continued under requisition.

(2) Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code (XLV of 1860).

13. Publication and service of orders.—(1) Every order made under section 5, 6, 7, sub-section (7) of section 9 or section 12 shall—

(a) if it is an order of a general nature or affecting a class of persons, be published in the manner prescribed by rules made in this behalf;

(b) if it is an order affecting an individual corporation, or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (V of 1908);

(c) if it is an order affecting an individual person other than a corporation or firm, be served on the person—

- (i) personally, by delivering or tendering to him the order, or
- (ii) by post, or
- (iii) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(2) Where a question arises whether a person was duly informed of an order made in pursuance of section 5, 6, 7, sub-section (7) of section 9 or section 12 compliance with the requirements of sub-section (1) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

14. Power to enter and inspect land.—Without prejudice to any powers otherwise conferred by this Act, any officer or person empowered in this behalf by the Provincial Government by general or special order may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, an order under this Act should be made in relation to such land, or with a view to securing compliance with any order made under this Act.

15. Delegation of functions.—The Provincial Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the Provincial Government below the rank of a Collector, as may be so specified.

16. Exemption.—The Provincial Government may by rules exempt any land from the provisions of section 5 or 6 or both on such terms and conditions as may be specified in the said rules.

17. Protection of action taken under Act.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder.

(2) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act or any order made thereunder.

18. Officers to be deemed public servants.—Every officer authorised or empowered by the Provincial Government to exercise any power or to perform any duty under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

19. Power to make rules.—(1) The Provincial Government may by notification in the *Official Gazette* make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the form in which intimation shall be given under sub-section (1) of section 6;

(ii) the manner of holding an inquiry under sub-section (1), and the amount of compensation to be prescribed under sub-section (3), of section 8;

(iii) levy of court-fees in respect of appeals under sections 8 and 9;

(iv) exemption of any land from the provisions of section 5 or 6 or both and the terms and conditions on which the land shall be exempted;

(v) any other matter which under this Act is to be or may be prescribed.

20. Repeal.—The Bombay Land Requisition Ordinance, 1947 (Bom. Ordinance No. V of 1947), is hereby repealed; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), shall apply to the repeal as if that Ordinance were an enactment.

(2) Notwithstanding the repeal of the said Ordinance and anything contained in this Act,—

(i) any intimation given under sub-section (1) of section 5 of that Ordinance within a period of seven days prior to the commencement of this Act shall be deemed to have been given under the corresponding provision of this Act ;

(ii) any order made under the said Ordinance requisitioning any land shall be deemed to be made under this Act ;

(iii) any land requisitioned or continued to be subject to requisition under the said Ordinance shall be deemed to be requisitioned or continued to be subject to requisition under this Act.

SCHEDULE:

- | | |
|------------------------------|-------------------------|
| 1. City of Bombay. | 6. Nasik District. |
| 2. Bombay Suburban District. | 7. Poona District. |
| 3. Thana District. | 8. Sholapur District. |
| 4. Ahmedabad District. | 9. Ahmednagar District. |
| 5. Surat District. | 10. Belgaum District. |
| | 11. Dharwar District. |

The Bombay District Police and the City of Bombay Police (Amendment) Act, 1948.

The following Act of the Bombay Legislature has been assented to by the Governor-General on the 7th April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 16th April 1948.

Bombay Act No. XXXIV of 1948.

An Act to amend the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

WHEREAS it is expedient to amend the Bombay District Police Act, 1890 (Bom. IV of 1890), and the City of Bombay Police Act, 1902 (Bom. IV of 1902), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay District Police and the City of Bombay Police (Amendment) Act, 1948.

2. *Amendment of sections 10, 25A, 39A, 46, 46B, 46D and 61 of Bom. IV of 1890.*—In the Bombay District Police Act, 1890—

(1) in section 10 the words “race” and “caste or” shall be deleted ;

(2) in sub-section (3) of section 25A, for the words “one month” the figures and word “45 days” shall be substituted ;

(3) to section 39A, the following shall be added, namely :—

“or the using of loud-speakers in any public places or places of public entertainment” ;

(4) in section 46—

(a) in sub-section (1) the words “and not to enter the Province or, as the case may be, the district” shall be added at the end ;

(b) in sub-section (3) the words “and not to enter the Province or, as the case may be, the district” shall be added at the end ;

(5) in clause (i) (b) of sub-section (3) of section 46B, the words “and not to enter the Province or, as the case may be, the district” shall be added at the end ;

(6) in sub-section (2) of section 46D—

(i) for the word “entering” the brackets, figure and words “(i) who enters” shall be substituted ; and

(ii) after the words "said clause" the words, brackets and figures "or (ii) who in contravention of a direction issued under section 46 or 46B, enters any place in the Province" shall be inserted ;

(7) in section 61,—

(a) in clause (1), sub-clause (i) shall be deleted ; and

(b) after clause (2) the following new clause shall be inserted, namely :—

(3) *Gambling in streets*.—whoever contrary thereto assembles with others or joins any assembly in a street assembled for the purpose of gaming or wagering shall be punished—

(i) for a first offence, with imprisonment for a term which may extend to one month and shall also be liable to fine, and

(ii) for a subsequent offence with imprisonment for a term which may extend to six months and shall also be liable to fine."

3. *Amendment of sections 22, 23, 27, 33, 46 and 127 of and insertion of new sections 23A and 109A in Bom. IV of 1902*.—In the City of Bombay Police Act, 1902 (Bom. IV of 1902),—

(1) after sub-clause (ii) of clause (f) of sub-section (1) of section 22, the following sub-clause shall be inserted, namely :—

"(iia) the using of a loud-speaker in any public place or place of public entertainment" ;

(2) in sub-section (1) of section 23, the word "or" at the end of clause (e) and clause (f) shall be deleted ;

(3) after section 23 the following new section shall be inserted, namely :—

"23A. *Power of Commissioner of Police to prohibit etc. continuance of music, sound or noise*.—(1) If at any time the Commissioner of Police is satisfied from the report of an officer in charge of a section or other information received by him that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury or risk of annoyance, disturbance, discomfort or injury to the public or to any persons who dwell or occupy property in the vicinity, he may by a written order issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating,—

(a) the incidence or continuance in or upon any premises of—

(i) any vocal or instrumental music,

(ii) sounds caused by the playing, bearing, clashing, blowing or use in any manner whatsoever of any instrument, appliance, apparatus or contrivance which is capable of producing sound,

or

(b) the carrying on, in or upon any premises of any trade, avocation or operation resulting in or attended with noise.

(2) Any order made under sub-section (1) shall be served in the manner provided for the service of summons by sections 89 to 91.

(3) The Commissioner of Police may, either on his own motion or on the application of any person aggrieved by an order made under sub-section (1), either rescind, modify or alter any such order :

Provided that before any such application is disposed of, the Commissioner of Police shall afford to the applicant an opportunity of appearing before him either in person or by pleader and showing cause against the order, and shall, if he rejects any such application either wholly or in part, record his reasons for such rejection."

(4) in section 27—

(a) in sub-section (1) the words "and not to enter the Province or, as the case may be, the Greater Bombay" shall be added at the end ;

(b) in sub-section (2) after the word "removal" the words "and prohibit the entry" and after the words and figures "Bombay Beggars Act, 1945," the words and figures "or under the Bombay Prevention of Prostitution Act, 1923" shall be inserted ;

(c) in sub-section (2C), in paragraph (1) (b) of clause (iii) the words "and not to enter the Province or, as the case may be, the Greater Bombay" shall be added at the end ;

(d) in sub-section (3A),—

(i) for the word "entering" the brackets, figure and words "(1) who enters" shall be substituted ; and

(ii) after the words "said clause" the words, brackets and figures "or (ii) who, in contravention of a direction issued under this section, enters any place in the Province" shall be inserted ;

(5) in clause (i) of section 33 the words and figures "or under section 128" shall be deleted, and to sub-clause (ii) of clause (k) the words, brackets, figures and letter "or under clause (iia) of section 127" shall be added ;

(6) in sub-section (2) of section 46, for the words "one month" the figures and word "45 days" shall be substituted ;

(7) after section 109, the following new section shall be inserted, namely :—

"109-A. *Deposit instead of bond.*—When any person is required by a Police officer to execute a bond, with or without sureties, such officer may permit him to deposit a sum of money or Government promissory notes to such amount as the officer may fix, in lieu of executing such bond";

(8) in section 127,—

(i) in clause (a) for the words and figures "or under section 23" the words, figures and letter, "section 23 or section 23A" shall be substituted ;

(ii) in clause (i) for the word, brackets and figures "or (ii)" the brackets, figures, word and letter "(ii) or (iia)" shall be substituted ;

(iii) the word "and" after clause (ii) shall be deleted ;

(iv) after clause (ii) the following new clause shall be inserted, namely :—

"(iia) for any contravention of an order made under section 23A, be punishable with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both ;"

The Bombay Land Revenue Code (Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 13th April 1948, is published in the *Bombay Government Gazette*, Part IV, dated the 16th April 1948.

Bombay Act No. XXXV of 1948.

An Act to amend the Bombay Land Revenue Code, 1879.

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879 (Bom. V of 1879), for the purpose hereinafter appearing and to provide for the continuance in force of certain rules made under the said Code ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Land Revenue Code (Amendment) Act, 1948.

2. *Amendment of section 52 of Bom. V of 1879.*—(1) Section 52 of the

Bombay Land Revenue Code, 1879 (Bom. V of 1879) (hereinafter called "the Code"), shall be re-numbered as sub-section (1) of that section and in sub-section (1) so re-numbered; after the word "period" the words "not exceeding ninety-nine years" shall be inserted;

(2) after sub-section (1) so re-numbered the following new sub-section shall be inserted, namely :—

"(2) After the expiry of the period for which the assessment of any land is fixed under sub-section (1), the Collector may, from time to time, revise the same in accordance with the rules made in this behalf by the Provincial Government. The assessment so revised shall be fixed each time for such period not exceeding ninety-nine years as the Provincial Government may, by general or special order, specify."

3. *Amendments to have retrospective effect, etc.*—The amendments made by this Act shall be deemed to be made with effect from the 19th of October 1939; and, notwithstanding anything contained in any law,—

(a) rules which were made by the Provincial Government under the Code relating to the revision of the assessment and fixing of the same after revision on land assessed or held or used for any non-agricultural purpose and which were in force immediately before the said date shall, on and from that date, be deemed to have been made under the Code as amended by this Act and shall continue to be in force until altered, amended or repealed; and

(b) any assessment made and fixed after revision on such land on and after the said date under the said rules shall not be liable to be questioned in any court merely on the ground that the rules were not authorized by the provisions of the Code.

The Bombay Entertainments Duty (Second Amendment) Act, 1948.

The following Act of the Bombay Legislature having been assented to by the Governor on the 19th April 1948 is published in the *Bombay Government Gazette*, Part IV, dated the 23rd April 1948.

Bombay Act No. XXXVII of 1948.

An Act to amend the Bombay Entertainments Duty Act, 1923.

WHEREAS it is expedient to amend the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923), for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Entertainments Duty (Second Amendment) Act, 1948.

2. *Amendment of section 7 of Bom. I of 1923.*—In sub-section (1) of section 7 of the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923), after clause (c) the following new clause shall be inserted, namely :—

"(cc) for prohibiting the issue of complimentary or free tickets or passes for admission to an entertainment, by whatever name called, exceeding such number as may be specified ;"

PART IX

WEST BENGAL ACTS

The Calcutta Municipal (Amendment) Act, 1947.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 1444L, of the Judicial and Legislative (Legislative) Department, dated the 29th December 1947, published in the *Calcutta Gazette, Extraordinary*, dated the 30th December 1947.]

West Bengal Act I of 1947.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 30th December, 1947.]

An Act further to amend the Calcutta Municipal Act, 1923.

WHEREAS it is expedient further to amend the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), for the purposes and in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Calcutta Municipal (Amendment) Act, 1947.

(2) It shall come into force on the date on which the Calcutta Municipal (Amendment) Ordinance, 1947 (West Ben. Ord. VIII of 1947), ceases to operate.

2. *Application of this Act.*—The provisions of this Act shall apply to the elections of Councillors and Aldermen of the Corporation of Calcutta under the Calcutta Municipal Act, 1923, after the commencement of this Act.

3. *Amendment of section 5 of Bengal Act III of 1923.*—For clauses (a) and (b) of section 5 of the Calcutta Municipal Act, 1923 (hereinafter referred to as the said Act), the following clause shall be substituted, namely:—

“(a) ninety-six Councillors of whom—

(i) ninety-five shall be elected, and

(ii) one shall be the Chairman of the Trustees for the Improvement of Calcutta, *ex-officio*, and”

4. *Substitution of new section for section 8.*—For section 8 of the said Act, the following section shall be substituted, namely:—

“8. *Number of Councillors to be elected by territorial and other constituencies.*—(1) Eighty-six Councillors shall be elected by territorial constituencies to be formed under the provisions of section 8B.

(2) Nine Councillors shall be elected by such constituencies as are specified in Schedule III and the number of Councillors to be elected by each such constituency shall be as stated therein against that constituency.”

5. *Insertion of new sections 8A and 8B.*—After section 8 of the said Act, the following sections shall be inserted, namely:—

8A. *Reservation of seats.*—(1) The Provincial Government shall by notification in the *Official Gazette* provide for the representation of members of the Scheduled Castes by reserving for such members seats from among those to which Councillors are to be elected under sub-section (1) of section 8. The number of seats so reserved shall be in accordance with the proportion borne by such members to the total population of Calcutta according to the latest census.

(2) The Provincial Government shall by notification in the *Official*

Gazette provide for the representation of the minority communities, namely, the Muslims and Anglo-Indian communities by reserving for them seats from among those to which Councillors are to be elected under sub-section (1) of section 8. The number of seats so reserved shall be in accordance with the proportion borne by each such community to the total population of Calcutta according to the latest census.

8B. *Territorial constituencies.*—(1) The Provincial Government shall by notification in the *Official Gazette* divide Calcutta into as many territorial constituencies as they think proper and fix the number of Councillors to be elected by each such constituency.

(2) The Provincial Government may by notification in the *Official Gazette* divide Calcutta into as many special territorial constituencies as they may think proper for election of Councillors to the seats reserved for any minority community referred to in sub-section (2) of section 8A and fix the number of Councillors to be elected by each such constituency. When such special territorial constituencies are formed, the territorial constituencies other than such special territorial constituencies shall be treated as general territorial constituencies.

(3) When special territorial constituencies are formed for election to seats reserved for one of the minority communities referred to in sub-section (2) of section 8A, the seats reserved for the other minority community for election to which special constituencies are not formed and the seats reserved for the members of the Scheduled Castes shall be allotted to such general territorial constituencies in such manner as the Provincial Government may specify.

(4) When no special territorial constituency is formed the seats reserved for a minority community referred to in sub-section (2) of section 8A and the seats reserved for the members of the Scheduled Castes shall be allotted to the territorial constituencies in such manner as the Provincial Government may specify."

6. *Amendment of section 9.*—In sub-section (1) of section 9 of the said Act, the words "elected and appointed" and the words "and of the appointments made at that time" shall be omitted.

7. *Amendment of section 20.*—In section 20 of the said Act—

(a) in sub-section (1), for the words, brackets and figures beginning with "Subject to the provisions of any other law" and ending with "if such person" the following shall be substituted, namely:—

"Subject to the provisions of any other law on the subject for the time being in force, every person shall be qualified as an elector of a territorial constituency who owns or occupies or resides in any premises or exercises any profession, trade or calling within that constituency if such person"; and

(b) in sub-section (3), for the words beginning with "Chamber members of the Bengal Chamber of Commerce" and ending with "they are such members" the following shall be substituted, namely:—

"Chamber members of the Bengal Chamber of Commerce, Bengal National Chamber of Commerce, Indian Chamber of Commerce and Muslim Chamber of Commerce, members of the Calcutta Trades Association and Marwari Association and Commissioners for the Port of Calcutta shall be qualified respectively as electors for the constituency comprising the Chamber or Association or Trust of which they are such members".

8. *Amendment of section 22.*—In sub-section (1), (2) and (3) of section 22 of the said Act, after the words "or appointment" the words and figures "under section 36" shall be inserted.

9. *Substitution of new section for section 23.*—For section 23 of the said Act, the following section shall be substituted, namely:—

"23. Qualification for election as Councillors.—(1) No person shall be eligible for election as a Councillor to represent a territorial constituency unless his name is duly registered on the electoral roll of that or any other territorial constituency and unless in the case of a seat reserved for—

(a) members of the Scheduled Castes, he himself is a member of any of those castes;

(b) a minority community referred to in sub-section (2) of section 8A, he himself is a member of that community :

Provided that nothing in this sub-section shall prevent a member of the Scheduled Castes or of a minority community for which a seat is reserved from being eligible for election to a seat not reserved for members of those castes or for any minority community.

(2) No person shall be eligible for election as a Councillor to represent, as provided in Schedule III—

(a) a special constituency unless his name is registered on the electoral roll of the constituency, and

(b) a labour constituency unless his name is registered on the electoral roll of the constituency".

10. Amendment of section 24.—In sub-section (2) of section 24, of the said Act, the words beginning with "and notwithstanding anything contained elsewhere" and ending with "Muhammadan or Anglo-Indian as the case may be" shall be omitted.

11. Amendment of section 28.—For sub-section (1) of section 28 of the said Act, the following sub-section shall be substituted, namely :—

"(1) In any territorial constituency in which one or more seats are reserved for members of the Scheduled Castes or for any minority community referred to in sub-section (2) of section 8A, the following candidates, provided they are duly nominated and have not withdrawn their candidature, shall be declared to be duly elected, that is to say—

(a) if the number of candidates who are members of the Scheduled Castes or of any minority community is not greater than the number of seats reserved for members of those castes or for that community, as the case may be,—all such candidates ;

(b) if the number of candidates who are members of the Scheduled Castes or of any minority community is not less than the number of seats reserved for members of those castes or for that community, as the case may be, and the total number of candidates does not exceed the number of councillors to be elected for the constituency—all such candidates :

Provided that if in any case referred to in clause (a) the number of candidates other than candidates who are members of the Scheduled Castes or of any minority community does not exceed the number of vacant seats not reserved for members of those castes or for that community, as the case may be, all such candidates shall be declared to be duly elected."

12. Amendment of section 36.—To section 36 of the said Act the following provisions shall be added, namely :—

"Provided that no person shall be eligible for appointment as a Councillor unless he is duly qualified to be an elector under section 20 :

Provided further that an election shall be held for the purpose of filling the vacancies to be caused on the expiry of the term of office of such appointed Councillors."

13. Amendment of section 37.—In section 37 of the said Act the words, brackets, letter and figure "under clause (b) of section 5 or" shall be omitted.

14. *Amendment of section 38.*—In section 38 of the said Act—
(3) for sub-section (1) the following sub-section shall be substituted, namely :—

“(1) Notwithstanding anything contained in the Indian Oaths Act, 1873 (X of 1873), every person who is a Councillor or an Alderman shall before taking his seat make, at a meeting of the Corporation, an oath or affirmation of his allegiance to the Constitution of India in the following form, namely :—

I.A.B. being ^{a Councillor}_{an Alderman} of the Corporation do solemnly swear (or affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter”;

(b) in sub-section (2) for the words “Any person who having been elected or appointed to be a Councillor or elected an Alderman”, the words “Any Councillor or Alderman who” shall be substituted.

15. *Amendment of section 39.*—In section 39 of the said Act—

(a) for the words “three years” occurring for the second time the words “three months” shall be substituted, and

(b) after the words “three years” occurring for the third time the words “or three months, as the case may be,” shall be inserted.

16. *Amendment of section 41.*—In section 41 of the said Act, for the words “elected or appointed a Councillor” the words and figures “elected a Councillor or appointed a Councillor under section 36” shall be substituted.

17. *Amendment of section 42.*—In section 42 of the said Act, the words “elected or appointed under this Act” shall be omitted.

18. *Amendment of section 43.*—In section 43 of the said Act—

(a) sub-section (2) shall be omitted;

(b) in sub-section (3), the words “or appointed” shall be omitted; and

(c) after sub-section (3), the following sub-section shall be added, namely :—

“(4) The vacancy referred to in the second proviso to section 36 shall be deemed to be a casual vacancy and a person elected as a Councillor to fill that vacancy shall remain a Councillor till the first meeting of the Corporation held under section 59 after the next general election.”

19. *Substitution of new section for section 44.*—For section 44 of the said Act the following section shall be substituted, namely :—

“44. *Power of Provincial Government in respect of first election.*—If any difficulty arises as to the preparation or publication of the first electoral rolls or the holding of the first elections after the commencement of the Calcutta Municipal (Amendment) Act, 1947, the Provincial Government may by order authorize any matter or thing to be done which appears to them necessary for the proper preparation or publication of the rolls or for the proper holding of the elections”.

20. *Substitution of new Schedule for Schedule III.*—For Schedule III to the said Act, the following Schedule shall be substituted, namely :—

**"SCHEDULE III.
List of Constituencies.
(See sections 8, 20 and 23.)"**

Name of constituency.	Extent of constituency.	Number of councillors to be elected.
I	2	3
A—Special Constituencies.		
Bengal Chamber of Commerce	... Non-territorial	... One.
Bengal National Chamber of Commerce	... Non-territorial	... One.
Indian Chamber of Commerce	... Non-territorial	... One.
Muslim Chamber of Commerce	... Non-territorial	... One.
Calcutta Trades Association	... Non-territorial	... One.
Marwari Association	... Non-territorial	... One.
Calcutta Port Commissioners	... Non-territorial	... One.
B—Labour Constituency.		
Labour	... Trade Unions referred to in sub-section (4) of section 20.	Two".

21. *Continuance of action taken under West Bengal Ordinance VIII of 1947.*—Any notifications or orders issued or anything done or any action taken in exercise of any power conferred by the Calcutta Municipal (Amendment) Ordinance, 1947 (West Ben. Ord. VIII of 1947), shall, on the said Ordinance ceasing to be in operation, be deemed to have been issued, done or taken in exercise of the powers conferred by this Act as if this Act had commenced on the 4th day of October, 1947.

The Bengal Finance (West Bengal Extending) Act, 1947.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 1445L, of the Judicial and Legislative (Legislative) Department, dated 29th December 1947, published in the *Calcutta Gazette*, Extraordinary, dated the 30th December 1947].

West Bengal Act II of 1947.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 30th December, 1947.]

An Act further to extend the period of operation of the Bengal Finance (No. II) Act, 1945.

WHEREAS it is expedient to extend the period of operation of the Bengal Finance (No. II) Act, 1945 (Ben. Act IX of 1945), for a further period;

It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Bengal Finance (West Bengal Extending) Act, 1947.

(2) It shall come into force on the date on which the Bengal Finance (Extending) Ordinance, 1947 (Ben. Ord. IV of 1947), ceases to operate.

2. *Amendment of section 1 of Bengal Act IX of 1945.*—For sub-section (3) of section 1 of the Bengal Finance (No. II) Act, 1945, the following sub-section shall be substituted, namely:—

“(3) It shall remain in force only up to the 31st day of March, 1948.”

The West Bengal District Boards Act, 1947.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 1446L, of the Judicial and Legislative (Legislative) Department, dated the 29th December 1947, published in the *Calcutta Gazette, Extraordinary*, dated the 30th December 1947.]

West Bengal Act III of 1947.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 30th December, 1947.]

An Act to provide for the dissolution and constitution of certain district boards.

WHEREAS under the award of the Boundary Commission parts of the districts of Jalpaiguri, Malda, Nadia and Dinajpur have been excluded from the Province of West Bengal;

AND WHEREAS the new districts of Navadwip, West Dinajpur, Malda and Jalpaiguri have been constituted comprising respectively the parts of the former districts of Nadia, Dinajpur, Malda and Jalpaiguri which have been included within West Bengal under the said award;

AND WHEREAS it is expedient to provide for the dissolution and constitution of certain district boards;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the West Bengal District Boards Act, 1947.

(2) It shall come into force on the date on which the West Bengal District Boards Ordinance, 1947 (West Ben. Ord. XI of 1947), ceases to operate.

2. *Definition.*—In this Act, the expression “Boundary Commission” means the Boundary Commission referred to in the Indian Independence Act, 1947 (10 & 11 Geo. VI, c. 30.)

3. *Dissolution of certain district boards.*—Notwithstanding anything contained in the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885), or in any other law for the time being in force, on and from the date on which the award of the Boundary Commission came into force the district boards of the districts of Nadia, Dinajpur, Malda and Jalpaiguri constituted under the said Act shall be deemed to have been dissolved and every member of each such board shall be deemed to have ceased to hold office as such member in so far as such boards had authority over any area included within West Bengal under the said award.

4. *Constitution of certain district boards.*—(1) Notwithstanding anything contained in the Bengal Local Self-Government Act of 1885 or in any other law for the time being in force, the Provincial Government may, by notification in the *Official Gazette*, constitute district boards of the districts of Navadwip, West Dinajpur, Malda and Jalpaiguri in such manner and consisting of such number of members as it may determine in this behalf.

(2) The district boards constituted under sub-section (1) shall be deemed to have been constituted on and from the date on which the award of the Boundary Commission came into force.

5. *Term of office of members.*—The Provincial Government may, by notification in the *Official Gazette*, fix the term of office of members of the district boards constituted under section 4 :

Provided that the term of office so fixed shall not exceed two years from the date on which the award of the Boundary Commission came into force.

6. *Savings.*—Any rules, by-laws, notifications or directions issued or anything done or any action taken or any suit instituted or any proceedings commenced by or against the district boards dissolved under section 3 in re-

lation to the areas comprised in the districts of Navadwip, West Dinajpur, Malda and Jalpaiguri before the publication of the notification constituting the district boards of the said districts under sub-section (1) of section 4 shall be deemed to have been issued, done, taken, instituted or commenced; as the case may be, by or against the respective district boards as so constituted as if such boards had been constituted and in existence at the time when such rules, by-laws, notifications or directions were issued, thing done, action taken, suit instituted or proceedings commenced.

7. *Continuance of action taken under West Bengal Ordinance XI of 1947.*—Any notification issued or anything done or any action taken in exercise of any power conferred by the West Bengal District Boards Ordinance, 1947 (West Ben. Ord. XI of 1947), shall, on the said Ordinance ceasing to be in operation, be deemed to have been issued, done or taken in exercise of the powers conferred by this Act as if this Act had commenced on the 1st day of November, 1947.

The West Bengal District School Boards Act, 1947.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor. [Vide Notification No. 14471., of the Judicial and Legislative (Legislative) Department, dated the 29th December 1947, published in the *Calcutta Gazette, Extraordinary*, Pt. III, dated the 30th December 1947.]

West Bengal Act IV of 1947.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 30th December, 1947.]

An Act to provide for the dissolution and constitution of certain district school boards.

WHEREAS under the award of the Boundary Commission parts of the districts of Jalpaiguri, Malda, Nadia and Dinajpur have been excluded from the Province of West Bengal;

AND WHEREAS the new districts of Navadwip, West Dinajpur, Malda and Jalpaiguri have been constituted comprising respectively the parts of the former districts of Nadia, Dinajpur, Malda and Jalpaiguri which have been included within West Bengal under the said award;

AND WHEREAS it is expedient to provide for the dissolution and constitution of certain district school boards;

It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the West Bengal District School Boards Act, 1947.

(2) It shall come into force on the date on which the West Bengal District School Boards Ordinance, 1947 (West Ben. Ord. XII of 1947), ceases to operate.

2. *Definition.*—In this Act, the expression "Boundary Commission" means the Boundary Commission referred to in the Indian Independence Act, 1947 (10 & 11, Geo. VI, c. 30).

3. *Dissolution of certain district school boards.*—Notwithstanding anything contained in the Bengal (Rural) Primary Education Act, 1930 (Ben. Act VII of 1930), or in any other law for the time being in force, on and from the date on which the award of the Boundary Commission came into force the District School Boards of the districts of Nadia, Dinajpur, Malda and Jalpaiguri constituted under the said Act shall be deemed to have been dissolved and every member of each such board shall be deemed to have ceased to hold office as such member in so far as such boards had authority over any area included within West Bengal under the said award.

4. *Constitution of certain district school boards.*—(1) Notwithstanding

anything contained in the Bengal (Rural) Primary Education Act, 1930, or in any other law for the time being in force, the Provincial Government may, by notification in the *Official Gazette*, constitute district school boards of the districts of Navadwip, West Dinajpur, Malda and Jalpaiguri in such manner and consisting of such number of members as it may determine in this behalf.

(2) The district school boards constituted under sub-section (1) shall be deemed to have been constituted on and from the date on which the award of the Boundary Commission came into force.

5. *Term of office of members.*—The Provincial Government may, by notification in the *Official Gazette*, fix the term of office of members of the district school boards constituted under section 4 for such period as the Provincial Government may think proper.

6. *Savings.*—Any regulations made or directions issued or anything done or any action taken or any suit instituted or any proceedings commenced by or against the district school boards dissolved under section 3 in relation to the areas comprised in the districts of Navadwip, West Dinajpur, Malda and Jalpaiguri before the publication of the notification constituting the district school boards of the said districts under sub-section (1) of section 4 shall be deemed to have been made, issued, done, taken, instituted or commenced, as the case may be, by or against the respective district school boards as so constituted as if such boards had been constituted and were in existence at the time when such regulations were made, directions issued, thing done, action taken, suit instituted or proceedings commenced.

7. *Continuance of action taken under West Bengal Ordinance XII of 1947.*—Any notification issued or anything done or any action taken in exercise of any power conferred by the West Bengal District School Boards Ordinance, 1947 (West Ben. Ord. XII of 1947), shall, on the said Ordinance, ceasing to be in operation, be deemed to have been issued, done or taken in exercise of the powers conferred by this Act as if this Act had commenced on the 6th day of November, 1947.

The West Bengal Laws (Amendment and Repeal) Act, 1947.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor General [Vide Notification No. 235L, of the Judicial and Legislative (Legislative) Department, dated the 9th February 1948, published in the *Calcutta Gazette*, Pt. III, dated the 12th February 1948.]

West Bengal Act XII of 1947.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor General was first published in the *Calcutta Gazette* of the 12th February, 1948.]

An Act to amend certain Acts and to repeal certain other Acts.

WHEREAS it is expedient to re-enact the provisions of certain Acts made by the Governor of Bengal under the legislative powers assumed to himself under the Proclamation, dated the 31st March, 1945, issued under section 93 of the Government of India Act, 1935 (26 Geo. V, c. 2), and for that purpose to make certain amendments in certain other Acts;

AND WHEREAS since the said Acts made by the Governor of Bengal will, by virtue of the provisions of article 6 of the India (Provisional Constitution) Order, 1947, read with sub-section (4) of the said section 93 cease to have effect on such re-enactment, it is expedient that these Acts should be expressly and specifically repealed;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the West Bengal Laws (Amendment and Repeal) Act, 1947.

2. *Amendment of certain Acts.*—The Acts specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the corresponding entries in the fourth column thereof.

3. *Repeal of certain Acts.*—The Acts specified in the Second Schedule are hereby repealed to the extent mentioned in the corresponding entries in the fourth column thereof.

4. *Saving of orders, etc., issued under the provisions re-enacted before their re-enactment.*—For the avoidance of doubt it is hereby declared that any appointment, notification, order, scheme, rule, form or bye-law made or issued under any Act specified in the First Schedule as amended by any of the Acts specified in the Second Schedule shall, unless a different intention appears, continue in force and be deemed to have been made or issued under the provisions of the said Act specified in the First Schedule as amended by this Act unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the said Act as amended by this Act.

5. *Validation of certain actions by, and proceedings before, persons appointed to assist the Registrar of Co-operative Societies for West Bengal.*—No action taken by, and no proceedings commenced before, any person appointed under section 9 of the Bengal Co-operative Societies Act, 1940 (Ben. Act XXI of 1940), to assist the Registrar of Co-operative Societies for West Bengal shall be invalid by reason only of the fact that the amendments made by the Bengal Co-operative Societies (Amendment) Act, 1946 (Ben. Act VI of 1946), or by this Act in clause (r) of section 2, section 10 and section 140 of the Bengal Co-operative Societies Act, 1940, were not in operation on the date on which such action was taken or such proceedings were commenced; and every such action or proceedings shall be deemed to be as valid as if such action had been taken or such proceedings had been commenced under the Bengal Co-operative Societies Act, 1940, as so amended by the Bengal Co-operative Societies (Amendment) Act, 1946, or by this Act.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

Year.	No.	Short title.	Amendment.
1	2	3	4
<i>Local Act of the Governor General of India in Council in force in the Province of West Bengal.</i>			
1885	VIII.	The Bengal Tenancy Act, 1885.	(1) For section 49K, the following section shall be substituted, namely :— “49K. <i>Restriction on the sale of tenant's rights under order of Court.</i> —(1) Notwithstanding anything contained in this Act, no decree or order shall be passed by any Court for the sale of the right of an aboriginal tenure-holder, <i>raiyat</i> or under- <i>raiyat</i> in his tenure or holding, or in any portion thereof, nor shall any such right be sold in execution of any decree or order : Provided that any tenure or holding belonging to an aboriginal may be sold in accordance with the provisions of sub-section (2) in execution of a decree.

THE FIRST SCHEDULE.—*Contd.*

Year 1.	No 2	Short title. 3	Amendment. 4
1885	VIII	The Bengal Tenancy Act, 1885 — <i>Contd.</i>	of a competent Court to recover an arrear of rent which has accrued in respect of the tenure or holding. (2) When a decree for an arrear of rent which accrued in respect of a tenure or holding of an aboriginal tenant has been passed, such decree shall be executable solely by the Collector and the Court shall, on application made in this behalf by the decree-holder, send the decree to the Collector for execution and the Collector in execution of the said decree may, in his discretion,— (a) sell the said tenure or holding, or (b) eject the said aboriginal tenant and settle the said tenure or holding or a portion thereof with another aboriginal tenant on payment of the decretal amount by such other aboriginal tenant, or (c) place the landlord in possession of the said tenure or holding or a portion thereof for a period not exceeding seven years ; and if the Collector, in executing a decree under this sub-section,— (i) sells the said tenure or holding, he shall, subject to the provisions of sub-section (3), follow the procedure applicable to sales of land by a Civil Court in execution of decrees for arrears of rent ; (ii) places the landlord in possession of the said tenure or holding or any portion thereof for any period, the decree shall, at the end of such period, be deemed to have been satisfied in full and the Collector may then restore the said tenure or holding or a portion to the aboriginal tenure-holder, <i>raiayat</i> or under-<i>raiayat</i>, as the case may be, against whom the said decree was executed or to the successor in interest of such tenure-holder, <i>raiayat</i> or under <i>raiayat</i> or may settle it with another aboriginal : Provided that no portion of a tenure or holding shall be sold or settled by the Collector under this sub-section if such sale or settlement would result in bringing the rent for such portion below two rupees in the case of a tenure or one rupee in the case of a holding. (3) (a) Before issuing a proclamation for the sale of any tenure or holding in execution of a decree referred to in sub-section (2), the Collector shall after hearing the decree-holder and the judgment-debtor divide the tenure or holding into such number of smaller areas to be specified as lots as the Collector thinks fit for the purpose of being sold separately and shall specify the lots in the proclamation ;

THE FIRST SCHEDULE.—*Contd.*

Year. 1	No. 2	Short-title. 3	Amendment. 4
1385.	VIII.	The Bengal Tenancy Act, 1885— <i>Contd.</i>	(b) when any tenure or holding has been advertised for sale by the issue of a proclamation referred to in clause (a), each lot specified in the proclamation shall be put up to auction separately and as soon as the total amount of the bid reaches a sum sufficient to liquidate the amount of the decree and costs including the costs of sale, the sale shall be stopped and no further lots shall be knocked down, and if even after all the lots have been separately put up to auction the total amount of the bid does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, all the lots shall be put up to auction together. (4) Before restoring or settling a tenure or holding under sub-section (2), the Collector may, if he is satisfied that the rent of the tenure or holding has been illegally enhanced or is substantially in excess of the rent payable by tenants of the same class for lands of the same description with similar advantages in the vicinity, pass an order altering the amount of the rent of the tenure or holding to an amount which he considers to be fair. (5) Notwithstanding anything contained in this Act, where a portion of a tenure or holding is sold or settled under sub-section (2),— (a) the Collector shall, before confirming the sale or making the settlement, distribute the rent of the tenure or holding over such portion and the remaining portion or portions of the tenure or holding and in making such distribution the Collector shall follow, as far as may be, the procedure laid down in section 88; and (b) the division of the said tenure or holding consequent upon such sale or settlement and the distribution of the rent of such tenure or holding made under clause (a) shall, subject to the provisions of section 49M, be binding on the tenants and the landlord concerned. (6) Nothing in this section shall affect,— (a) any right to execute a decree for the sale of any such tenure or holding or the terms or conditions of any <i>bona fide</i> contract relating thereto if such decree was passed or such contract was registered,— (i) in the case of Sonthals of the districts of Birbhum, Bankura and Midnapore, before the 1st November, 1916, and (ii) in the case of other castes and tribes to which this chapter has been applied, at least one year before the date of the publication of the notification under sub-section (2) of section 49A in respect of such castes or tribes, or (b) any right for the sale of any such tenure or

THE FIRST SCHEDULE—*Contd.*

Year. 1	No. 2	Short title. 3	Amendments. 4
1885	VIII.	The Bengal Tenancy Act, 1885— <i>Contd.</i>	holding for the recovery of any dues which are recoverable as public demands.” (2) In section 49L, after the words “such tenancy or portion thereof” the words “other than a decree to recover an arrear of rent which has accrued in respect of such tenancy” shall be inserted. (3) In section 49M, for the word, figures and letter “or 49J” the word, figures and letters “49J or 49K” shall be substituted. <i>Bengal Acts:</i>
1865	VIII.	The Bengal Rent Recovery (Under-tenures) Act, 1865.	(1) In section 1, for the words, “all officers exercising the full powers of a Collector of a district” the words “any officer vested with the powers of a Collector of a district” shall be substituted. (2) In section 3,— (a) after the words “the lands lie” the words “or by such other officer not below the rank of a Deputy Collector as may be duly authorised in this behalf by the Provincial Government” shall be inserted, and (b) after the words “by the said Collector” the words “or other officer as aforesaid” shall be added.
1880	IX.	The Cess Act, 1880.	In section 107A,— (1) in sub-section (1),— (a) to clause (a) the following proviso shall be added, namely :— “Provided that if at any stage of the operations regarding valuation or revaluation of lands under this chapter, the Provincial Government is of opinion that the valuation or revaluation of such lands should be made in accordance with the provisions laid down in Chapters II, III and IV, the Provincial Government shall, by notification in the <i>Official Gazette</i>, make an order to that effect, and on the publication of such notification,— (i) the valuation or revaluation of lands in respect of which such notification is in force shall be made in accordance with the provisions of Chapters II, III and IV ; (ii) the valuation or revaluation of such lands made under this chapter shall have no effect ; and (iii) the holders of estates or tenures or the owners, holders or occupiers of rent-free interests who have filed returns under section 107J shall not be again called upon to file returns under Chapters II or Chapter IV for the purposes of valuation or revaluation under Chapters II, III and IV, and the returns filed under section 107J shall be treated as returns filed under Chapter II or Chapter IV, as the case may be.

THE FIRST SCHEDULE.—*Contd.*

Year. 1	No. 2	Short title. 3	Amendment. 4
1880	IX	The Cess Act, 1880.— <i>Contd.</i>	(b) after the proviso to clause (b) the following proviso shall be added, namely :— “Provided further that, where a notification has been issued under the proviso to clause (a) for the valuation or revaluation of any lands in accordance with the provisions of Chapters II, III and IV, the cess in respect of such lands shall, when such valuation or revaluation shall have been made, be paid in accordance with the provisions of Chapter III or Chapter IV, as the case may be, from the date fixed by the Board of Revenue as the date from which the valuation or revaluation so made shall take effect.”; (2) in sub-section (2), the following shall be added at the end, namely :— “or may, by like notification with effect from such date as may be specified in the notification, exclude from the said schedule any district for the time being included therein.”; (3) after sub-section (2) the following sub-section shall be added, namely :— “(3) The reference in sub-section (1) to Schedule G shall be construed as a reference to such schedule as for the time being amended under sub-section (2).”;
1909	V	The Bengal Excise Act, 1909.	In sub-section (3) of section 8, after the words “Commissioner of a Division” the following shall be inserted namely :— “or by any officer exercising the powers of an appellate authority under any rule made under section 85, clause (c).”;
1932	I	The Bengal Motor Vehicles Tax Act, 1932.	To sub-section (3) of section 4, the following proviso shall be added, namely :— “Provided that where a motor vehicle, other than a motor vehicle for the transport of goods or plying for hire for the carriage of passengers, has not been used for any period in West Bengal by reason of its being removed and kept outside West Bengal during such period, the Taxing Officer shall not refund or remit in respect of the said vehicle any portion of the tax for the quarterly period during which the said vehicle is so removed.”;
1933	VI	The Bengal Suppression of Immoral Traffic Act, 1933.	(1) In the long title, after the words “suppression of” the words “brothels and” shall be inserted. (2) In the first paragraph of the preamble, after the words “suppression of” the words “brothels and of” shall be inserted. (3) In clause (1) of section 3, the words “for the gain of any other person” shall be omitted.

THE FIRST SCHEDULE—*Contd.*

Year 1.	No. 2.	Short title. 3	Amendment. 4
1940	XXI	The Bengal Co-operative Societies Act, 1940.	(1) In section 2,— (a) to clause (j) the words “whether such claim be admitted or not”. shall be added; and (b) to clause (r) the words, brackets, letter and figure “and includes any person appointed to assist the Registrar on whom all or any of the powers or duties of the Registrar referred to in section 10 have been or has been conferred or imposed under clause (a) of that section” shall be added. (2) In section 10, after the words “any of the powers” the words “or impose all or any of the duties” shall be inserted. (3) To section 51, the following proviso shall be added, namely :— “Provided that nothing in this section shall apply to persons employed upon Federal Railways (within the meaning of the Government of India Act, 1935), or in mines or oil fields;” (4) In clause (b) of sub-section (4) of section 56, for the figure “29” the figure “20” shall be substituted. (5) In clause (iv) of sub-section (2) of section 140, after the word “powers” the words “and duties” shall be inserted.

THE SECOND SCHEDULE.

REPEALS.
(See section 3.)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
		<i>Bengal Acts.</i>	
1945	IV	... The Bengal Rent Recovery (Under-tenures) Amendment Act, 1945.	... The whole.
1945	V	... The Bengal Suppression of Immoral Traffic (Amendment) Act, 1945.	... The whole.
1945	XII	... The Bengal Tenancy (Amendment) Act, 1945.	... The whole.
1945	XIV	... The Bengal Motor Vehicles Tax (Amendment) Act, 1945.	... The whole.
1946	II	... The Bengal Excise (Amendment) Act, 1946.	... The whole.
1946	VI	... The Bengal Co-operative Societies (Amendment) Act, 1946.	... The whole.
1946	IX	... The Bengal Cess (Amendment) Act, 1946.	... The whole.

The West Bengal Motor Spirit Sales Taxation (Amendment) Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 428 L., of the Judicial and Legislative (Legislative) Department, dated the 6th March 1948, published in the *Calcutta Gazette*, Part III, dated the 11th March 1948.]

West Bengal Act I of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 11th March, 1948.]

An Act to extend the operation of the Bengal Motor Spirit Sales Taxation (Amendment) Act, 1946.

WHEREAS it is expedient to extend the operation of the Bengal Motor Spirit Sales Taxation (Amendment) Act, 1946 (Ben. Act XIII of 1946);

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the West Bengal Motor Spirit Sales Taxation (Amendment) Act, 1948.

2. *Amendment of section 1 of Bengal Act, XIII of 1946.*—Sub-section (3) of section 1 of the Bengal Motor Spirit Sales Taxation (Amendment) Act, 1946 (hereinafter referred to as the said Act), shall be omitted.

3. *Amendment of section 2.*—In section 2 of the said Act,—

(a) the words “During the continuance in force of this Act” shall be omitted, and

(b) for the words “the following shall be deemed to be” the words “the following shall be” shall be substituted.

The West Bengal Land (Requisition and Acquisition) Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 448 L., of the Judicial and Legislative (Legislative) Department, dated the 8th March 1948, published in the *Calcutta Gazette*, Part III, dated the 11th March 1948].

West Bengal Act II of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 11th March, 1948].

An Act to provide for the requisition and speedy acquisition of land for certain purposes.

WHEREAS it is expedient to provide for the requisition and speedy acquisition of land for the purposes of maintaining supplies and services essential to the life of the community and for providing proper facilities for transport, communication, irrigation or drainage;

It is hereby enacted as follows :—

1. *Short title, extent, commencement and duration.*—(1) This Act may be called the West Bengal Land (Requisition and Acquisition) Act, 1948.

(2) It extends to the whole of West Bengal.

(3) It shall come into force at once.

(4) It shall remain in force up to the 31st day of March, 1951.

2. *Definitions.*—In this Act unless there is anything repugnant in the subject or context,—

(a) “Collector”, “land” and “person interested” have the same meanings as in the Land Acquisition Act, 1894 (I of 1894);

(b) “Court” means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge or Munsif whom the Provincial Government may appoint, by name or by

virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of a Munsif, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887 (XII of 1887), and

(c) "prescribed" means prescribed by rules made under this Act.

3. *Power to requisition.*—(1) If in the opinion of the Provincial Government or any person authorised in this behalf by the Provincial Government it is necessary so to do for maintaining supplies and services essential to the life of the community or for providing proper facilities for transport, communication, irrigation or drainage, the Provincial Government or the person so authorised, as the case may be, may, by order in writing, requisition any land and may make such further orders as appear to it or to him to be necessary or expedient in connection with the requisitioning :

Provided that no land used for the purpose of religious worship shall be requisitioned under this section.

(2) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant also on such tenant.

4. *Acquisition of land.*—(1) Where any land has been requisitioned under section 3, the Provincial Government may use or deal with it in such manner as may appear to it to be expedient and may acquire such land by publishing in the *Official Gazette*, a notice to the effect that the Provincial Government has decided to acquire such land in pursuance of this section.

(2) Where a notice as aforesaid is published in the *Official Gazette*, the requisitioned land shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Provincial Government free from all incumbrances and the period of requisition of such land shall end.

5. *Notice to persons interested.*—(1) After the publication of a notice under sub-section (1) of section 4, the Collector shall cause public notice to be given at convenient places on or near the land to be taken, stating that the Provincial Government has acquired the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so acquired, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice in the manner prescribed on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business.

6. *Release from requisition.*—Where any land requisitioned under section 3 is not acquired and is to be released from requisition, the Provincial Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person who appears to it to be entitled to the possession of such land.

(2) The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the Provincial Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom the possession of any land requisitioned under section 3 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the Provincial Government shall publish in the *Official Gazette* a notice declaring that such land is released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such land.

(4) When a notice referred to in sub-section (3) is published in the *Official Gazette*, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the Provincial Government shall not be liable for any compensation or other claims in respect of such land for any period after the said date.

7. *Compensation.*—(1) Wherever any land is acquired under section 4 there shall be paid compensation the amount of which shall be determined by the Collector in the manner and in accordance with the principles set out in sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894):

Provided that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall, in respect of any land acquired under this Act, be deemed to be the market value of such land on the date of publication of the notice referred to in sub-section (1) of section 4:

Provided further that if such market value exceeds by any amount the market value of the land on the 31st day of December, 1946 on the assumption that the land had been at that date in the state in which it in fact was on the date of publication of the notice referred to in sub-section (1) of section 4, the amount of such excess shall not be taken into consideration.

(2) When the compensation has been determined under sub-section (1) the Collector shall make an award in accordance with the principles set out in section 11 of the Land Acquisition Act, 1894, and no amount referred to in sub-section (2) of section 23 of that Act, shall be included in the award.

(3) Where any land is requisitioned under section 3, there shall be paid to every person interested such compensation as may be agreed upon in writing between such person and the Collector, in respect of—

(a) the requisition of such land; and

(b) any damage done during the period of requisition to such land other than what may have been sustained by natural causes.

8. *Reference to Court.*—(1) The Collector shall in every case—

(a) where any person aggrieved by an award made under sub-section (2) of section 7 makes an application requiring the matter to be referred to the Court; or

(b) where there is any disagreement with regard to the compensation payable under sub-section (3) of section 7 between the Collector and the person to whom possession of any land is delivered under section 6, refer the matter to the decision of the Court.

(2) The provisions of the Land Acquisition Act, 1894, shall *mutatis mutandis* apply in respect of any reference made to the Court under sub-section (1).

9. *Power to enter upon land, etc.*—The Provincial Government may, with a view to requisitioning any land or for the purpose of determination by the Collector of the amount of compensation payable under this Act, by order,—

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be specified ;

(b) direct that the owner or occupier of the land shall not dispose of it or alter it till the expiry of such period as may be specified in the order ;

(c) authorise any person to perform in respect of any land all or any of the functions referred to in sub-section (2) of section 4 of the Land Acquisition Act, 1894.

10. *Penalty.*—If any person contravenes any order made under this Act he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

11. *Saving*—Save as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

12. *Protection of action taken under this Act.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

13. *Power to make rules.*—(1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) the manner of service of orders on the owner or occupier of land referred to in sub-section (2) of section 3 ; and

(b) the manner of service of notice on the persons referred to in sub-section (3) of section 5.

The West Bengal Security Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor General [Vide Notification No. 477L, of the Judicial and Legislative (Legislative) Department, dated the 12th March 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 13th March 1948.]

West Bengal Act III of 1948.

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The West Bengal Security Act, 1948.

West Bengal Act III of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor-General was first published in the Calcutta Gazette, Extraordinary, of the 13th March, 1948.]

An Act to make special provision for the maintenance of public order by the prevention of illegal acquisition, possession or use of arms, the suppression of subversive movements endangering communal harmony or the safety or stability of the Province, the suppression of goondas and for maintaining supplies and services essential to the life of the community.

WHEREAS it is expedient to make special provision for the maintenance of public order by the prevention of illegal acquisition, possession or use of arms, the suppression of subversive movements endangering communal harmony or the safety or stability of the province, the suppression of goondas and for maintaining supplies and services essential to the life of the community;

It is hereby enacted as follows:—

CHAPTER I.

Preliminary.*

1. *Short title, extent, commencement and duration.*—(1) This Act may be called the West Bengal Security Act, 1948.

(2) It extends to the whole of West Bengal.

(3) The Provincial Government may, by notification, direct that all or any of the provisions of this Act shall come into force in the whole or in any part of the province of West Bengal on such date as may be specified in the notification and may, by like notification, direct that the said provisions or any of them shall cease to be in force in the said province or part, as the case may be, on such date as may be specified in the notification.

(4) It shall, in the first instance, remain in force for a period of one year; provided that if a resolution in that behalf is, before the date on which under this sub-section it would otherwise have ceased to operate, passed by the Provincial Legislature, it shall continue in force for a further period of one year from such date.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) “essential commodity” means food, water, fuel, light, power or any other thing essential for the existence of the community which is notified in this behalf by the Provincial Government;

(2) “goonda” has the same meaning as in the Goondas Act, 1923 (Ben. Act I of 1923);

(3) "notified" and "notification" mean notified and notification respectively in the *Official Gazette* ;

(4) "prejudicial report" means any report, statement or visible representation, which, or the publishing of which, is, or is an incitement to the commission of, a subversive act as defined in clause 7 ;

(5) "prescribed" means prescribed by any order made under this Act ;

(6) "public servant" includes any public servant as defined in the Indian Penal Code (Act XLV of 1860) and any servant of any local authority or railway administration.

(7) "subversive act" means any act which is intended or is likely—

(a) to endanger—

(i) communal harmony, or

(ii) the safety or stability of the province ;

(b) to organise, further or help the illegal acquisition, possession or use of—

(i) arms, ammunition or military stores as defined in the Indian Arms Act, 1878 (XI of 1878),

(ii) explosive substances [as defined in the Explosive Substances Act, 1908 (VI of 1908)], or

(iii) corrosive substances or liquids ;

(c) to further the activities of goondas ;

(d) to prejudice the recruiting of, or the attendance of persons for service in, any police force or fire brigade or any other body of persons entered, enrolled or engaged as public servants or to tamper with the loyalty of such persons ;

(e) to impede, delay or restrict any work or any means of transport or locomotion necessary for the supply or distribution of any essential commodity except in furtherance of an industrial dispute as defined in the Industrial Disputes Act, 1947 (XIV of 1947).

Explanation.—Acts *bona fide* indicating disapprobation of the policy or measures of the Government with a view to obtain their alteration by lawful means shall not be deemed to be acts which are intended or are likely to endanger the safety or stability of the province.

3. *Effect of the provisions of the Act when inconsistent with other law.*—The provisions of this Act and of any orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

4. *Saving.*—No prohibition, restriction or disability imposed by or under this Act, unless otherwise expressly provided by an order issued by the Provincial Government or by an officer specially authorised by the Provincial Government in this behalf, shall apply to anything done by, or under the direction of, any public servant acting in the course of his duty as such public servant.

5. *Non-compliance with the provisions of this Act or any orders made thereunder.*—If any person to whom any provision of this Act relates or to whom any order made in pursuance of any such provision, is addressed or relates or who is in occupation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates, or in respect of which such order is made—

(a) fails without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply with such provision or order, or

(b) evades, or attempts to evade, by any means such provision, or order,

He shall be deemed to have contravened such provision or order.

CHAPTER II.

Prevention of Subversive Acts.

6. *Sabotage*.—(1) No person shall do any act with intent to impair the efficiency or impede the working of, or to cause damage to, —

(a) any building, vehicle, machinery, apparatus or other property used or intended to be used for the purpose of Government or any local authority;

(b) any railway [as defined in the Indian Railways Act, 1890 (IX of 1890)], aerial ropeway [as defined in the Bengal Aerial Ropeways Act, 1923 (Ben. Act VII of 1923)], tramway, road, canal, bridge, culvert, causeway, port, dockyard, lighthouse, aerodrome [as defined in the Indian Aircraft Act, 1934 (XXII of 1934)], air-field, air-strip or any installation thereon or any telegraph line or post [as defined in the Indian Telegraph Act, 1885 (XIII of 1885)];

(c) any rolling-stock of a railway or tramway or any vessel or aircraft;

(d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory;

(e) any prohibited place as defined in sub-section (8) of section 2 of the Indian Official Secrets Act, 1923 (XIX of 1923).

(2) The provisions of sub-section (1) shall apply in relation to any omission on the part of a person to do anything which he is under a duty, either to the Provincial Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.

7. *Prohibition of subversive acts, publications and communications*.—(1) No person shall, without lawful authority or excuse,—

(a) do any subversive act; or

(b) make, print, publish or distribute any document containing, or spread by any other means whatsoever, any prejudicial report.

(2) The author, editor, printer and publisher of, and any person who otherwise makes or produces any prejudicial report, and any person who distributes or sells any report of that nature, knowing it to be of such nature, shall be deemed to have contravened this section.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both:

Provided that in any proceedings arising out of a contravention of this section,—

(a) in relation to the making or printing of any document, it shall be a defence for the accused to prove that the said document was made or printed, as the case may be,—

(i) before the Bengal Special Powers Ordinance, 1946 (Ben. Ord. VI of 1946), came into force, or

(ii) with the permission or under the authority of the Provincial Government, or

(iii) as a proof intended for submission to the Provincial Government or to a person or authority designated by the Provincial Government in this behalf with a view to obtaining permission for its publication;

(b) in relation to the publication of any document it shall be a defence for the accused to prove that the said document was published—

(i) before the Bengal Special Powers Ordinance, 1946, came into force, or

(ii) with the permission or under the authority of the Provincial Government.

8. *Proscription etc., of certain documents.*—(1) Where in the opinion of the Provincial Government any document made, printed or published, whether before or after this Act comes into force, contains any prejudicial report, the Provincial Government may, by order,—

(a) require the author, printer, publisher or person in possession of such document not being a newspaper to inform the authority specified in the order of the name and address of any person concerned in the making of such report ;

(b) provide for the safe keeping by persons in possession of such document and copies thereof ;

(c) require the delivery of such document and any copy thereof to any authority specified in the order ;

(d) prohibit the further publication, sale or distribution of such document; of any extract therefrom or of any translation thereof, including, in the case of a newspaper or other periodical, the publication, sale or distribution of any subsequent issue thereof ;

(e) declare such document and every copy or translation thereof or extract therefrom, to be forfeited to His Majesty.

(2) Where in pursuance of sub-section (1) any document is required to be delivered to a specified authority, that authority may enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(3) Where in pursuance of sub-section (1) any document has been declared to be forfeited to His Majesty, any police-officer may seize any copy thereof, wherever found and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

9. *Power to impose censorship.*—(1) The Provincial Government may, for the purpose of preventing or suppressing subversive acts, by order addressed to a printer, publisher or editor, or to printers, publishers and editors generally,—

(a) require that all matters, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order ;

(b) prohibit or regulate the making or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any press, as defined in the Indian Press (Emergency Powers) Act, 1931 (XXIII of 1931).

(2) If any person contravenes any order made under sub-section (1), then, without prejudice to any other proceedings which may be taken against such person, the Provincial Government may declare to be forfeited to His Majesty every copy of any document published or made in contravention of such order and any press, as defined in the Indian Press (Emergency Powers) Act, 1931, used in the making of such document.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Explanation—In this Chapter “document” includes gramophone records, sound tracks and any other articles on which sounds have been re-

corded with a view to their subsequent reproduction.

CHAPTER III.

Public Safety and Order.

10. *Punishment for carrying or possessing any corrosive substance or liquid.*—Any person who carries on his person or knowingly has in his possession or under his control any corrosive substance or liquid, under such circumstances as to give rise to a reasonable suspicion that he does not carry it on his person or have it in his possession or under his control for a lawful object, shall, unless he can show that he was carrying it on his person or that he had it in his possession or under his control for a lawful object, be punishable with imprisonment for a term which may extend to seven years, to which fine may be added.

11. *Definition of looting.*—Whoever commits dacoity, robbery, theft, or theft in a building, vessel or vehicle or criminal misappropriation, if the commission of such offence takes place,

(a) during a riot or any disturbance of the public peace at or in the neighbourhood of the riot, or the place at which such disturbance of the public peace occurs, or

(b) in any area in which a riot or disturbance of the public peace has occurred and before law and order has been completely restored in such area, or

(c) in circumstances such that a person whose property is stolen or criminally misappropriated is not, as a consequence of rioting or any other disturbance of the public peace, present or able to protect such property, is said to commit the offence of looting.

12. *Use of force to stop looting.*—Any police-officer may use such force as may be necessary, even to the causing of death in order to stop the commission of the offence of looting within his view.

13. *Curfew.*—(1) The Commissioner of Police in Calcutta and the District Magistrate elsewhere may, subject to the control of the Provincial Government, by order direct that, subject to any exemption specified in the order, no person present within any area or areas specified in the order shall, between such hours as may be specified in the order, be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(3) In this section "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866 (Ben. Act IV of 1866), together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866 (Ben. Act II of 1866).

14. *Amendment of sections 127 and 128 of the Code of Criminal Procedure, 1898.*—During the continuance in operation of this Act, in sections 127 and 128 of the Code of Criminal Procedure, 1898 (Act V of 1898), for the words "or officer in charge of a police-station" the words "or any police-officer of or above the rank of a head constable" shall be deemed to have been substituted.

15. *Control of processions, meetings, etc.*—(1) The Provincial Government may, by general or special order, prohibit, restrict or impose conditions upon, the holding of or taking part in processions, meetings or assemblies which, in its opinion, are likely to disturb the communal peace.

(2) Any police-officer may take such steps, and use such force, as may be reasonably necessary for securing compliance with any order made under this section.

(3) If any person contravenes any order made under this section, he

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

16. *Power to make orders restricting the movements or actions of or detaining certain persons.*—(1) The Provincial Government, if satisfied on reasonable grounds, with respect to any particular person that with a view to preventing him from doing any subversive act it is necessary so to do, may make an order—

(a) directing that he be detained ;

(b) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in West Bengal as may be specified in the order ;

(c) requiring him to reside or remain in such place or within such area in West Bengal as may be specified in the order and if he is not already there to proceed to that place or area within such time as may be specified in the order ;

(d) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times and to such authority or person as may be specified in the order ;

(e) imposing upon him such restrictions as may be specified in the order in respect of his employment, business or movements, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions.

(2) Where an order is made under sub-section (1) directing any person to be detained, the Provincial Government may, if it so thinks fit, grant to such person, in accordance with such rules as it may make in this behalf, such allowance or expenses as it may deem appropriate.

(3) If any person is in any area or place in contravention of an order made under the provision of this section, or fails to leave any area or place in accordance with the requirements of such an order then, without prejudice to the provisions of sub-section (6), he may be removed from such area or place by any police-officer or by any person acting on behalf of the Provincial Government.

(4) So long as such an order as aforesaid in respect of any person directing that he be detained, is in force, he shall be liable to be removed to and detained in such place and under such conditions, which may include conditions as to maintenance, discipline or punishment for offences and breaches of discipline, as the Provincial Government may from time to time by general or special order specify.

(5) If the Provincial Government has reason to believe that a person in respect of whom such an order as aforesaid has been made directing that he be detained has absconded or is concealing himself so that the order cannot be executed, it may—

(a) make a report in writing of the fact to a Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides ; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate ;

(b) by notified order direct the said person to appear before such officer, at such place, and within such period as may be specified in the order ; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may ex-

tend to one year, or with fine, or with both.

(6) If any person contravenes any order made under this section, other than an order of the nature referred to in clause (b) of sub-section (5), he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

17. *Duration of orders made under section 16.*—Save as hereinafter in this section otherwise provided, an order made under section 16 shall be in force for such period not exceeding three months as may be specified in the order or for the period subsequent to the date of issue of such order during which this Act continues in operation, whichever is less, unless earlier cancelled by the authority making the order.

Provided that the Provincial Government may, if and so often as it thinks fit, before the date on which under this section any such order would otherwise have ceased to be in force, place before a Judge of the High Court in Calcutta, the grounds on which the order is made, the representation, if any, made under section 18 by the person affected thereby and such further materials as the Provincial Government may think fit and the Provincial Government shall, in accordance with the decision of the Judge thereon, issue an order of release or a fresh order of detention for such period not exceeding nine months as may be determined by the Judge:

Provided also that the person affected by the order shall not be entitled to be defended or represented by any lawyer or other person before the Judge.

Provided further that the Provincial Government shall be at liberty to release any such person at any time notwithstanding any provision hereinbefore contained.

18. *Grounds of order of detention to be disclosed to person affected by the order.*—Where an order is made in respect of any person under clause (a) of sub-section (1) of section 16, the authority making the order shall, within fifteen days after the order is made, communicate to the person affected thereby the grounds on which the order has been made against him except in so far as the said authority considers that disclosure of any fact would be against the public interest and such other particulars as are in the opinion of such authority sufficient to enable him to make, if he wishes, a representation against the order and such person may at any time thereafter make a representation in writing to such authority against the order and it shall be the duty of such authority to inform such person of his right of making such representation and to afford him the earliest practical opportunity of doing so.

19. *Control of use of loudspeakers, megaphones, etc.*—(1) The Provincial Government may, for the purpose of preventing or suppressing subversive acts, by general or special order, prohibit, restrict, regulate or impose conditions on—

(i) the use or operation in any street, square, public place or other open space of any apparatus for amplifying the human voice, or any reproduction of the human voice, such as a megaphone or an electrically operated loudspeaker; and

(ii) the use, operation or driving in any street, square, public place or other open space of any vehicle which carries or has attached to it any apparatus referred to in clause (i).

(2) Any police-officer may take such steps and use such force as may be reasonably necessary for securing compliance with any order made under this section and may seize any apparatus or vehicle in respect of which any contravention of any such order has in the opinion of such officer occurred.

Provided that any vehicle or apparatus seized by a police-officer under

this sub-section shall be conveyed without delay before a Magistrate who may give such directions as to its temporary custody as he thinks fit, but if no prosecution is instituted for a contravention of the order in respect of the vehicle or apparatus seized within a period which is in the opinion of the Magistrate reasonable, he shall direct its return to the person from whom it was seized.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and any Court trying such contravention may direct that any apparatus or vehicle in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty.

20. Unlawful drilling.—(1) The Provincial Government may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order.

(2) The Provincial Government may, by general or special order, with a view to securing that no unauthorised exercise, movement, evolution or drill of a military nature is performed at any place, prohibit, restrict or impose conditions on the holding of, or taking part in, any such camp, parade, meeting or assembly, or such class thereof, as may be specified in the order.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

21. Unofficial uniforms, etc.—(1) If the Provincial Government is satisfied that the wearing in public of any dress or article of apparel resembling any uniform or part of a uniform required to be worn by a member of His Majesty's Forces or of the Forces of the Dominion of India or by a member of any official Police Force or of any force constituted under any law for the time being in force would be likely to prejudice the public safety, or the maintenance of public order, the Provincial Government may, by general or special order, prohibit or restrict the wearing or display in public of any such dress or article of apparel.

(2) For the purposes of this section, a dress or an article of apparel shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

22. Powers to require the assistance of certain persons.—(1) Any officer of Government authorised in this behalf by general or special order of the Provincial Government may, within such area as may be specified in the order, require any male person in that area to assist in the maintenance or restoration of law and order or in the protection of property for such period and in such manner as the officer may direct.

(2) If any person fails to comply with any lawful direction given to him under sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

CHAPTER IV.

Miscellaneous Provisions.

23. Power to obtain information.—(1) Without prejudice to any special provisions contained in this Act, the Provincial Government may by order require any person to furnish or produce to any specified authority or person any such information or article in his possession as may be specified in the order, being information, or an article which the Provincial Government considers it necessary or expedient in the interests of the prevention or suppression of subversive acts to obtain or examine :

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Provided that—

(i) no editor, printer or publisher of a newspaper shall be required to furnish or produce any such information or article in respect of any matter published in such newspaper; and

(ii) no person shall be required to furnish or produce any information or article which under the provisions of the Indian Evidence Act, 1872 (I of 1872), he cannot be compelled to furnish or produce.

(2) If any person fails to furnish or produce any information or article in compliance with an order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

24. *False statement.*—If any person when required by or under any of the provisions of this Act to make any statement or furnish any information, makes any statement or furnishes any information which he knows or has reasonable cause to believe to be false, or not true, in any material particular, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

25. *Requisitioning of property.*—(1) If in the opinion of the Provincial Government it is necessary or expedient so to do for preventing or suppressing subversive acts or for maintaining supplies and services essential to the life of the community or for rehabilitating persons displaced from their residences or shops due to communal strife, it may by order in writing requisition any property, moveable or immovable, and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no place or premises used for the purpose of religious worship shall be requisitioned under this section.

(2) Where the Provincial Government has requisitioned any property under sub-section (1), it may use or deal with the property in such manner as may appear to it to be expedient.

(3) Whenever in pursuance of sub-section (1), the Provincial Government requisitions any moveable property, the owner thereof shall be paid such compensation as the Provincial Government may determine:

Provided that where the owner of such property, being aggrieved by the amount of compensation so determined, makes an application for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as an arbitrator appointed in this behalf by the Provincial Government may determine:

Provided further that where immediately before the requisition the property was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined by the Provincial Government as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Provincial Government in this behalf may decide to be just.

(4) Where in pursuance of sub-section (1) the Provincial Government requisitions any immovable property, there shall be paid compensation, the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid within three months in accordance with such agreement;

(b) where no such agreement can be reached, the Provincial Government shall appoint as arbitrator a District Judge or an Additional District Judge;

(c) the Provincial Government may, in any particular case, nominate

a person having expert knowledge as to the nature of the property requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose ;

(d) at the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation ;

(e) an appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount of compensation awarded does not exceed five thousand rupees in lump or, in the case of an amount payable periodically, two hundred and fifty rupees *per mensem* ;

(f) save as provided, in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this sub-section.

(5) Where any immovable property requisitioned under sub-section (1) is to be released from requisition, the Provincial Government may, after making such enquiry, if any, as it considers necessary, specify by order in writing the person who appears to the Provincial Government to be entitled to the possession of such property.

(6) The delivery of possession of the immoveable property requisitioned under sub-section (1) to the person specified in an order made under sub-section (5) shall be a full discharge of the Provincial Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of such property which any other person may be entitled by due process of law to enforce against the person to whom possession of such property is so delivered.

(7) Where the person to whom possession of any immoveable property requisitioned under sub-section (1) is to be given cannot be found or is not readily ascertainable or has no agent or other person empowered to accept delivery on his behalf, the Provincial Government shall cause a notice declaring that such property is released from requisition to be affixed on some conspicuous part of such property and publish the notice in the *official Gazette*.

(8) When a notice referred to in sub-section (7) is published in the *official Gazette*, the immoveable property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Provincial Government shall not be liable for any compensation or other claim in respect of such property for any period after the said date.

(9) Where any immoveable property requisitioned under sub-section (1) is released from requisition, compensation shall also be paid in respect of any damage done during the period of requisition to such property other than what may have been sustained by normal wear and tear or by natural causes. When the amount of such compensation can be fixed by agreement, it shall be paid in accordance with such agreement ; where no such agreement can be reached, the matter shall be referred to an arbitrator and thereupon the provisions of sub-section (4) shall, as far as may be, apply.

(10) The Provincial Government may, with a view to requisitioning any property under sub-section (1) or determining the compensation payable under sub-section (3), by order—

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be so specified ;

(b) direct that the owner, occupier or person in possession of the property shall not without the permission of the Provincial Government.

dispose of it or where the property is a building, structurally alter it or where the property is moveable, remove it from the premises in which it is kept till the expiry of such reasonable period as may be specified in the order.

(11) Without prejudice to any powers otherwise conferred by this Act, any person authorised in this behalf by the Provincial Government may enter any premises between sunrise and sunset and inspect such premises and any property therein or thereon for the purpose of determining whether, and, if so, in what manner, an order under this section should be made in relation to such premises or property, or with a view to securing compliance with any order made under this section.

(12) If any person contravenes any order made under this section he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

26. Publication and service of notice.—(1) Save as otherwise expressly provided in this Act, every authority, officer or person who makes any order in writing in pursuance of any provision thereof shall publish or serve or cause to be served notice of such order in such manner as may be prescribed by rules made by the Provincial Government.

(2) Where this Act empowers an authority, officer or person to take action by notified order, the provisions of sub-section (1) shall not apply in relation to such order.

(3) If in the course of any judicial proceedings, a question arises whether a person was duly informed of an order made in pursuance of any provision of this Act, compliance with sub-section (1), or in a case to which sub-section (2) applies, the notification of the order, shall be conclusive proof that he was so informed, but a failure to comply with sub-section (1)—

(i) shall not preclude proof by other means that he had information of the order; and

(ii) shall not affect the validity of the order.

(4) Any police-officer and any other person authorised by the Provincial Government in this behalf may, for any purpose connected with the prevention or suppression of subversive acts or with maintaining supplies and services essential to the life of the community or for carrying out the provisions of this Act affix any notice to, or cause any notice to be displayed on, any premises, vehicle or vessel, and may for the purpose of exercising the power conferred by this section enter any premises vehicle or vessel at any time.

(5) Any person authorised by the Provincial Government in this behalf may, for any purpose mentioned in sub-section (4), by order direct the owner or other person in possession or control of any premises, vehicle or vessel to display any notice on, or in, the premises, vehicle or vessel in such manner as may be specified in the order.

CHAPTER V.

• Supplementary and Procedural.

27. Attempts, etc., to contravene the provisions of the Act.—Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of, any of the provisions of this Act or of any order made thereunder, shall be deemed to have contravened that provision or, as the case may be, that order.

28. Special provision for searches.—(1) In any area in which the Provincial Government, as a consequence of apprehended danger to the public

in such area, notifies in the *Official Gazette* in this behalf, any police-officer may in any road, street, alley, public place, or open space, stop and search any person in such area for the purpose of ascertaining whether such person is carrying, in contravention of any law for the time being in force, any explosive or corrosive substance or liquid or any weapon of offence or any article which may be used as a weapon of offence and may seize any such substance or liquid together with its container, if any, or any such weapon or article discovered during such search :

Provided that every such search shall be made with due regard to decency and that no woman shall be searched except by a woman.

(2) Anything seized under sub-section (1) shall be conveyed without delay before a Magistrate who may give such directions as to its temporary custody as he may think fit, so however that, where no prosecution in respect of the possession of such thing is instituted within a period in his opinion reasonable, the Magistrate may, subject to the provisions of any other law for the time being in force, give such orders as to the final disposal of such thing as he deems expedient.

29 *General power of arrest without warrant.*—Any police-officer may arrest without warrant any person who is reasonably suspected of having committed, or of committing a contravention of any order made under section 13

30: *Powers of arrest and detention.*—(1) Any police-officer not below the rank of Sub-Inspector, or any other officer of Government empowered in this behalf by general or special order of the Provincial Government, may arrest without warrant any person whom he reasonably suspects of having done, of doing, or of being about to do any subversive act.

(2) Any officer who makes an arrest in pursuance of sub-section (1) shall forthwith report the fact of such arrest to the Provincial Government, and, pending the receipt of the orders of the Provincial Government, may, by order in writing, commit any person so arrested to such custody as the Provincial Government may, by general or special order, specify :

Provided that no person shall be detained in custody under this sub-section for a period exceeding fifteen days without the order of the Provincial Government.

(3) On receipt of any report made under the provisions of sub-section (2), the Provincial Government may, in addition to making such order as may appear to be necessary for the temporary custody of any person arrested under this section, make, in exercise of any power conferred upon it by any law for the time being in force, such final order as to his detention, release, residence or any other matter concerning him as may appear to the Provincial Government in the circumstances of the case to be reasonable or necessary.

31. *Cognizance of contraventions of the provisions of the Act or orders made thereunder.*—(1) No Court shall take cognizance of any alleged contravention of the provisions of this Act or of any order made thereunder, except on a report in writing of the facts constituting such contravention, made by a public servant.

(2) Proceedings in respect of a contravention of the provisions of this Act alleged to have been committed by any person may be taken before the appropriate Court having jurisdiction in the place where that person is for the time being.

(3) Notwithstanding anything contained in Schedule II to the Code of Criminal Procedure, 1898 (Act V of 1898), a contravention of the provisions of section 6, shall be triable by a Court of Session, a Presidency Magistrate or a Magistrate of the first class.

(4) Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offence specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may if such magistrate or bench of magistrates thinks fit, on application in this behalf being made by the prosecution, try a contravention of any such provisions of this Act or orders made thereunder as the Provincial Government may by notified order, specify in this behalf, in accordance with the provisions contained in sections 262 to 265 of the said Code.

32. *Power to give effect to orders, etc.*—(1) Any authority, officer, or person who is empowered by or in pursuance of the provisions of this Act to make any order, or to exercise any other power may, in addition to any other action prescribed by or under this Act, take, or cause to be taken, such steps as may, in the opinion of such authority, officer or person, be reasonably necessary for securing compliance with, or for preventing or rectifying any contravention of, such order, or for the effective exercise of such power:

(2) Where in respect of any of the provisions of this Act there is no authority, officer or person empowered to take action under sub-section (1), the Provincial Government may take, or cause to be taken, such steps as may in the opinion of the Provincial Government be reasonably necessary for securing compliance with, or preventing or rectifying any breach of, such provisions.

(3) For the avoidance of doubt it is hereby declared that the power to take steps under sub-section (1) or under sub-section (2) includes the power to enter upon any land or other property whatsoever.

33. *Saving as to orders.*—(1) Subject to the provisions of section 491 of the Code of Criminal Procedure, 1898, no order made in exercise of any power conferred by or under this Act, shall be called in question in any Court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872 (1 of 1872), presume that such order was so made by that authority.

34. *Protection of action taken under the Act.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

35. *Delegation of powers and duties of the Provincial Government.*—The Provincial Government may, by notified order, direct that any power or duty which is conferred or imposed by any provision of this Act upon the Provincial Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised and discharged also by any officer or authority subordinate to the Provincial Government.

36. *Power to make rules.*—(1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the principles and the procedure to be followed in assessing, and in

making the payment of, allowances and expenses referred to in sub-section (2) of section 16 ;

(b) the procedure to be followed in arbitrations and the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal referred to in section 25 ;

(c) the manner of publication and service of notice referred to in sub-section (1) of section 26.

37. Saving and Repeal.—(1) Any order made or deemed to have been made, any notification issued or deemed to have been issued or any direction given or deemed to have been given under any provision of the Bengal Special Powers Ordinance, 1946 (Ben. Ord. VI of 1946), and in force immediately before the commencement of this Act shall continue in force and be deemed to be an order made, notification issued or direction given under the corresponding provision of this Act and any penalty incurred, action taken or proceedings commenced under any provision of the said Ordinance shall be deemed to have been incurred, taken or commenced under this Act as if this Act were already in force when such penalty was incurred, or such action was taken or such proceedings were commenced.

(2) The Bengal Ordinances Temporary Enactment Act, 1947 (Ben. Act I of 1947), in so far as it enacts and continues in operation, the provisions of the Bengal Special Powers Ordinance, 1946, is hereby repealed.

The West Bengal Special Benches (Continuance) Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor General [Vide Notification No. 493L., of the Judicial and Legislative (Legislative) Department, dated the 15th March 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 15th March 1948]

West Bengal Act IV of 1948.

(Passed by the West Bengal Legislature.)

[Assent of the Governor General was first published in the *Calcutta Gazette*, Extraordinary, of the 15th March, 1948.]

An Act to provide for the continuance of the Special Benches constituted under the Bengal Criminal Law Amendment Ordinance, 1947, and for the disposal of cases pending before them.

WHEREAS the provisions of the Bengal Criminal Law Amendment Ordinance, 1947 (Ben. Ord. I of 1947), as enacted and continued in operation by and under the Bengal Ordinances Temporary Enactment Act, 1947 (Ben. Act I of 1947) (hereinafter referred to as "the said provisions"), are temporary in their duration;

AND WHEREAS it is expedient that the Special Benches constituted under the said provisions should be continued and the cases which were allotted to them before the commencement of this Act and are pending before them at such commencement should be disposed of by the said Benches in accordance with the said provisions;

It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the West Bengal Special Benches (Continuance) Act, 1948.

(2) It shall come into force on the date on which the said provisions cease to operate under the Bengal Ordinances Temporary Enactment Act, 1947.

2. *Continuance of the Special Benches and disposal of pending cases.*—Notwithstanding the expiry of the said provisions it shall be lawful—

(a) for the Special Benches constituted thereunder before the commencement of this Act to dispose of, in accordance with the said provisions, the cases which having been allotted to them thereunder are pending before them at such commencement, and

(b) for the Provincial Government to reconstitute, in accordance with the said provisions, if necessary, such Special Benches or any of them, for such disposal of the said cases as aforesaid, and the said Special Benches whether, reconstituted as aforesaid or not, shall continue to function as such till the disposal of the said cases as if the said provisions had not expired.

The West Bengal Expiring Laws Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor General [Vide Notification No. 494L., of the Judicial and Legislative (Legislative) Department, dated the 15th March 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 15th March 1948.]

West Bengal Act V of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor General was first published in the *Calcutta Gazette*, Extraordinary, of the 15th March, 1948.]

An Act to provide for the further continuance in operation of the provisions of certain Bengal Ordinances as enacted and continued in operation by and under the Bengal Ordinances Temporary Enactment Act, 1947.

WHEREAS the provisions of the Ordinances specified in the schedule as enacted and continued in operation by and under the Bengal Ordinances Temporary Enactment Act, 1947 (Ben. Act I of 1947) (hereinafter referred to as the said provisions) are temporary in their duration;

AND WHEREAS it is expedient to provide for the continuance, as in this Act mentioned, of the said provisions for a further period;

It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the West Bengal Expiring Laws Act, 1948.

(2) It shall come into force on the date on which the said provisions cease to operate under the provisions of the Bengal Ordinances Temporary Enactment Act, 1947.

2. *Continuance of the provisions of certain Ordinances.*—(1) The said provisions shall be deemed to be enacted by this Act and shall have effect and shall continue to operate as such until the 31st day of March, 1949.

(2) Any rules, orders, notifications or directions issued or anything done or any action taken or any proceedings commenced under any of the said provisions and in force immediately before the commencement of this Act shall continue in force and shall be deemed to have been issued, done, taken, or commenced, as the case may be, under the corresponding provision as deemed to be enacted and continued in operation by this Act as if this Act were already in force on the date on which such rules, orders, notifications or directions were issued or thing was done or action was taken or proceedings were commenced.

3. *Effect of expiration of the provisions continued by this Act.*—On the expiration of the period during which the said provisions continue in operation under this Act, such expiration shall not affect—

(a) any penalty or punishment incurred or alleged to have been incurred under the said provisions during their continuance in operation, or

(b) any investigation, legal proceeding or remedy in respect of any such

penalty or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty or punishment may be imposed as if the said provisions had not ceased to operate.

The Schedule
(See section 2.)

Ordinances promulgated by the Governor of Bengal under section 88 of the Government of India Act, 1935.

Year.	Number	Short title.
1946	III ...	The Bengal Molasses Control Ordinance, 1946.
1946	V ...	The Calcutta Rent Ordinance, 1946.
1946	XI ...	The Bengal Jute Mills (Temporary Provision) Ordinance, 1946.

The Requisitioned Land (Continuance of Powers) West Bengal Amendment Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 485L., of the Judicial and Legislative (Legislative) Department, dated the 12th March 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 18th March 1948].

West Bengal Act VI of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 18th March 1948.]

An Act to amend the Requisitioned Land (Continuance of Powers) Act, 1947, in its application to West Bengal.

WHEREAS it is expedient to amend the Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), in its application to West Bengal for the purpose and in the manner hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Requisitioned Land (Continuance of Powers) West Bengal Amendment Act, 1948.

(2) It extends to the whole of West Bengal.

2. *Application of Act.*—The Requisitioned Land (Continuance of Powers) Act, 1947, hereinafter referred to as the said Act, shall, in its application to West Bengal, be amended in the manner provided in this Act.

3. *Amendment of section 1 of Act XVII of 1947.*—In sub-section (3) of section 1 of the said Act for the words, figures and brackets "mentioned in section 4 of the India (Central Government and Legislature) Act, 1946" the words and figures "ending the 31st day of March 1950" shall be substituted.

4. *Amendment of section 2.*—In section 2 of the said Act, clauses (1) and (3) shall be omitted.

5. *Amendment of sections 3, 4, 5 and 7.*—In sections 3, 4, 5 and 7 of the said Act for the words "appropriate Government" wherever they occur, the words "Provincial Government" shall be substituted.

6. *Amendment of section 4.*—In sub-sections (2) and (4) of section 4 of the said Act for the words "the Government" the words "the Provincial

Government" shall be substituted.

7. *Amendment of section 5.*—In sub-section (3) of section 5 of the said Act for the words "of Government" occurring for the first time the words "of the Provincial Government" and for the words "of Government" occurring for the second time the words "of such Government" and for the words "from Government" the words "from such Government" shall be substituted.

8. *Amendment of section 8.*—In section 8 of the said Act, the words "Central Government or any" shall be omitted.

The West Bengal Repealing and Amending Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 512L., of the Judicial and Legislative (Legislative) Department, dated the 18th March 1948, published in the *Calcutta Gazette*, Part III, dated the 25th March 1948].

West Bengal Act VII of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 25th March, 1948.]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

AND WHEREAS it is also expedient that the enactments specified in the second schedule, which are spent or have otherwise become unnecessary or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the West Bengal Repealing and Amending Act, 1948.

2. *Amendment of certain enactments.*—The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. *Repeal of certain enactments.*—The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

4. *Savings.*—The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing; nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

The First Schedule.**AMENDMENTS**

(See section 2.)

Year.	No.	Short title.	Amendments.
1	2	3	4
Bengal Acts.			
1923	III	... The Calcutta Municipal Act, 1923.	In sub-section (1) of section 20— (a) in clause (a) the words and figures “or, in the case of the first general election under this Act, under the corresponding chapters of the Calcutta Municipal Act, 1899”, (b) in clause (b) the words and figures “or, in the case of the first general election held under this Act, under the Calcutta Municipal Act, 1899”, (c) in clause (c) the words and figures “or, in the case of the first general election held under this Act, under the corresponding chapter of the Calcutta Municipal Act, 1899”, shall be omitted.
1935	IV	... The Bengal Workmen's Protection Act, 1934.	In sub-section (1) of section 1, for the figure “1934” the figure “1935” shall be substituted.
1936	VII	... The Bengal Agricultural Debtors Act, 1935.	In sub-section (1) of section 1, for the figure “1935” the figure “1936” shall be substituted.
1938	III	... The Bengal Famine Insurance Fund Act, 1937.	In section 1, for the figure “1937” the figure “1938” shall be substituted.
1940	X	... The Bengal Money-lenders Act, 1940.	(1) In the proviso (ii) to sub-section (1) of section 36, for the figure “1935” the figure “1936” shall be substituted. (2) In sub-section (3) of section 41 for the figure “1934” the figure “1935” shall be substituted.
Central Acts.			
1836	X	... The Bengal Indigo Contracts Act, 1836.	(1) In section 2, for the words, letters and figures, “Regulation VI, 1823, of the Bengal Code” the words and figures “of the Bengal Indigo Contracts Regulation, 1823” shall be substituted.

The First Schedule—Contd.

Year. 1	No. 2	Short title. 3	Amendments. 4
			(2) In section 4, for the words, letters and figures "Regulation VI of 1823, of the Bengal Code," the words and figures "the Bengal Indigo Contracts Regulation, 1823" shall be substituted.
1885	VIII	... The Bengal Tenancy Act, 1885.	In clause (ii) of sub-section (2) of section 54 the words "by rules made by the Provincial Government" shall be omitted.

The Second Schedule.**REPEALS.**

(See section 3.)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
		Bengal Acts.	
1941	II	... The Bengal Rural Poor and Unemployed Relief (Amendment) Act, 1941.	The whole.
1941	III	... The Bengal Local Self-Government (Amendment) Act, 1941.	Ditto.
1941	IV	... The Bengal Water-Hyacinth (Amendment) Act, 1941.	Ditto.
1941	VII	... The Eastern Frontier Rifles (Bengal Battalion Amendment) Act, 1941.	Ditto.
1941	VIII	... The St. Thomas' School (Amendment) Act, 1941.	Ditto.
1941	IX	... The Bengal Court of Wards (Amendment) Act, 1941.	Sections 2 and 3.
1941	X	... The Bengal Patni Taluks Regulation (Amendment) Act, 1941.	The whole.
1942	I	... The Bengal Public Demands Recovery (Amendment) Act, 1942.	Ditto.
1942	II	... The Bengal Agricultural Debtors (Amendment) Act, 1942.	Ditto.
1942	III	... The Bengal Non-agricultural Tenancy (Temporary Provisions) Extending Act, 1942.	Ditto.
1942	VII	... The Bengal Land Revenue Sales (Amendment) Act, 1942.	Ditto.
1942	VIII	... The Bengal Agricultural Debtors (Second Amendment) Act, 1942.	Ditto.
1943	I	... The Calcutta and Suburban Police (Amendment) Act, 1943.	Ditto.
1943	II	... The Bengal Land Revenue Sales (Amendment) Act, 1943.	Ditto.

The Second Schedule—Contd.

Year.	No.	Short title.	Extent of repeal.
I	2	3	4
1943	III	The Bengal Local Self-Government (Amendment) Act, 1943.	The whole.
1943	IV	The Bengal (Rural) Primary Education (Amendment) Act, 1943.	Ditto.
1943	VI	The Bengal Non-agricultural Tenancy (Temporary Provisions) Extending Act, 1943.	Ditto.
1943	VII	The Bengal Vagrancy Act, 1943.	Section 27.
Central Acts.			
1870	XX	The Court-fees Act (1870) Amendment Act, 1870.	The whole.
1871	I	The Cattle Trespass Act, 1871.	Section 2 and the Schedule.
1871	V	The Prisoners Act, 1871	So much as has not been repealed.
1871	XXIII	The Pensions Act, 1871	Section 2 and the Schedule.
1875	XIII	The Probate and Administration Act, 1875.	So much as has not been repealed.
1876	XVI	The Stage-carriages Act (1861) (Amendment) Act, 1876.	Ditto.
1881	VII	The Bengal Cess (Amendment No. 1) Act, 1881.	The whole.
1881	X	The Coroners Act, 1881	So much as has not been repealed.
1882	XV	The Presidency Small Cause Courts Act, 1882.	Sections 2, 3 and the First Schedule.
1883	II	The Elephants Preservation Act (1879) Amendment Act, 1883.	The whole.
1885	III	The Transfer of Property Act (1882) Amendment Act, 1885.	Ditto.
1886	VIII	The Bengal Tenancy (Amendment) Act, 1886.	Ditto.
1887	IX	The Provincial Small Cause Courts Act, 1887.	So much of section 2 as has not been repealed.
1889	VII	The Succession Certificate Act, 1889.	So much as has not been repealed.
1890	XVI	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.	Ditto.
1891	I	The Cattle Trespass Act (1871) Amendment Act, 1891.	Ditto.
1891	XII	The Amending Act, 1891	Ditto.
1892	IV	The Court of Wards Act (Bengal) Amendment Act, 1892.	Ditto.
1894	I	The Land Acquisition Act, 1894.	So much of section 2 as has not been repealed.
1894	IX	The Prisons Act, 1894.	Section 2 and the Schedule B.

The Second Schedule—Contd.

Year.	No.	Short title.	Extent of repeal.
I	2	3	4
1895	I	... The Presidency Small Cause Courts Act, 1895.	So much as has not been repealed.
1895	VIII	... The Police Act (1861) Amendment Act, 1895.	The whole.
1897	I	... The Public Servants (Inquiries) Act (1850) Amendment Act, 1897.	Sections 2, 3 and 4.
1897	V	... The Amending Act, 1897 ...	Sub-section (2) of section 2 and the Second Schedule.
1897	VIII	... The Reformatory Schools Act, 1897.	Sections 2 and 3.
1898	I	... The Stage-Carriages Act (1861) Amendment Act, 1898.	So much as has not been repealed.
1899	III	... The Presidency Small Cause Courts Act, 1899.	Ditto.
1899	X	... The Carriers Act, 1899 ...	Ditto.
1899	XI	... The Court-fees Amendment Act, 1899.	Ditto.
1899	XVIII	... The Land Improvement Loans (Amendment) Act, 1899.	Ditto.
1900	II	... The Transfer of Property Act, 1900.	Ditto.
1901	X	... The Court-fees (Amendment) Act, 1901.	Ditto.
1903	I	... The Amending Act, 1903 ...	Section 3 and the Second Schedule.
1903	XIII	... The Lepers (Amendment) Act, 1903.	So much as has not been repealed.
1904	VI	... The Transfer of Property (Amendment) Act, 1904.	The whole.
1904	XV	... The Indian Stamp (Amendment) Act, 1904.	Ditto.
1905	VI	... The Court-fees (Amendment) Act, 1905.	Ditto.
1906	IV	... The Presidency Small Cause Courts Act, 1906.	So much as has not been repealed.
1906	V	... The Indian Stamp (Amendment) Act, 1906.	Ditto.
1906	VIII	... The Land Improvement and Agriculturists Loans (Amendment) Act, 1906.	Ditto.
1907	IV	... The Repealing and Amending (Rates and Cesses) Act, 1907.	The whole.
1908	IV	... The Coroners (Amendment) Act, 1908.	So much as has not been repealed.
1908	XV	... The Indian Ports Act, 1908 ...	Section 69 and Schedule II.
1910	VI	... The Indian Stamp (Amendment) Act, 1910.	The whole.

The Second Schedule—Contd.

Year. 1	No. 2	Short title. 3	Amendments. 4
1910	VII ...	The Court-fees (Amendment) Act, 1910.	Ditto.
1910	XII ...	The Glanders and Farcy Law (Amendment) Act, 1910.	Ditto.
1910	XIII ...	The Prisons (Amendment) Act, 1910.	So much as has not been repealed.
1911	VI ...	The Indian Ports (Amendment) Act, 1911.	The whole.
1911	V ...	The Indian Tramways (Amendment) Act, 1911.	Ditto.
1911	IX ...	The Births, Deaths and Marriages Registration (Amendment) Act, 1911.	Ditto.
1911	XIV ...	The Court-fees (Amendment) Act, 1911.	Ditto.
1911	XVI ...	The Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.	Ditto.
1912	I ...	The Indian Stamp (Amendment) Act, 1912.	So much as has not been repealed.
1912	VII ...	The Bengal, Bihar and Orissa and Assam Laws Act, 1912.	So much of sections 7 and 8 and Schedule B as has not been repealed.
1912	IX ...	The Presidency Small Cause Courts (Amendment) Act, 1912.	The whole.
1914	IV ...	The Decentralization Act, 1914.	So much as has not been repealed.
1914	VI ...	The Provincial Small Cause Courts (Amendment) Act, 1914.	The whole.
1914	X ...	The Repealing and Amending Act, 1914.	So much as has not been repealed.
1914	XVII ...	The Second Repealing and Amending Act, 1914.	Ditto.
1915	XI ...	The Repealing and Amending Act, 1915.	Ditto.
1916	VI ...	The Indian Ports (Amendment) Act, 1916.	The whole.
1916	XIII ...	The Amending Act, 1916	So much as has not been repealed.
1917	XXIII ...	The Presidency Small Cause Courts (Amendment) Act, 1917.	The whole.
1917	XXIV ...	The Repealing and Amending Act, 1917.	So much as has not been repealed.
1919	XVII ...	The Land Acquisition (Amendment) Act, 1919.	The whole
1919	XVIII ...	The Repealing and Amending Act, 1919.	So much as has not been repealed.

The Second Schedule—Contd.

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1920	VIII ...	The Dourine (Amendment) Act, 1920.	The whole.
1920	IX ...	The Glanders and Farcy (Amendment) Act, 1920.	Ditto.
1920	XXII ...	The Lepers (Amendment) Act, 1920.	Ditto.
1920	XXXI ...	The Repealing and Amending Act, 1920.	So much as has not been repealed.
1920	XXXVIII	The Devolution Act, 1920 ...	Ditto.
1920	XXXIX	The Indian Elections Offences and Inquiries Act, 1920.	The whole of Part I.
1921	XIII ...	The Carriers (Amendment) Act, 1921.	The whole.
1921	XIX ...	The Land Acquisition (Amendment) Act, 1921.	Ditto.
1922	XVI ...	The Indian Ports (Amendment) Act, 1922.	Ditto.
1922	XIX ...	The Court-fees (Amendment) Act, 1922.	Ditto.
1923	XI ...	The Repealing and Amending Act, 1923.	So much as has not been repealed.
1923	XXXVIII	The Land Acquisition (Amendment) Act, 1923.	The whole.
1923	XXXIX	The Indian Ports (Amendment) Act, 1923.	Ditto.
1923	XLIII	The Indian Stamp (Amendment) Act, 1923.	So much as has not been repealed.
1925	IX ...	The Indian Ports (Amendment) Act, 1925.	The whole.
1925	XVII ...	The Prisons (Amendment) Act, 1925.	The whole.
1925	XXI ...	The Religious Endowments (Amendment) Act, 1925.	Ditto.
1925	XXXIV	The Cotton Transport (Amendment) Act, 1925.	Ditto.
1925	XXXVI	The Indian Ports (Amendment) Act, 1925.	So much as has not been repealed.
1926	XXVII	The Transfer of Property (Amendment) Act, 1926.	The whole.
1926	XXVIII	The Usurious Loans (Amendment) Act, 1926.	Ditto.
1926	XL ...	The Indian Succession (Second Amendment) Act, 1926.	Ditto.
1927	X ...	The Repealing and Amending Act, 1927.	So much as has not been repealed.
1927	XVIII ...	The Indian Succession (Amendment) Act, 1927.	The whole.
1927	XXI ...	The Indian Securities (Amendment) Act, 1927.	Ditto.
1927	XXII ...	The Societies Registration (Amendment) Act, 1927.	Ditto.

The Second Schedule—Contd.

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1928	II	The Indian Securities (Amendment) Act, 1928.	The whole.
1928	XIV	The Indian Succession (Amendment) Act, 1928.	Ditto.
1928	XVIII	The Repealing and Amending Act, 1928.	So much as has not been repealed.
1929	XVIII	The Indian Succession (Amendment) Act, 1929.	The whole.
1929	XX	The Transfer of Property (Amendment) Act, 1929.	Ditto.
1929	XXI	The Transfer of Property (Amendment) Supplementary Act, 1929.	Sections 2 to 14 and the Schedule.
1930	I	The Provident Funds (Amendment) Act, 1930.	The whole.
1930	V	The Transfer of Property (Amendment) Act, 1930.	Ditto.
1930	VI	The Prisons (Amendment) Act, 1930.	Ditto.
1930	VIII	The Repealing and Amending Act, 1930.	So much as has not been repealed.
1930	XXVI	The Indian Forest (Amendment) Act, 1930.	The whole.
1931	XI	The Indian Ports (Amendment) Act, 1931.	Ditto.
1931	XVII	The Indian Succession (Amendment) Act, 1931.	Ditto.
1933	III	The Indian Forest (Amendment) Act, 1933.	Ditto.
1933	XVI	The Land Acquisition (Amendment) Act, 1933.	Ditto.
1934	XXIV	The Repealing and Amending Act, 1934.	So much as has not been repealed.
1934	XXXV	The Amending Act, 1934.	Ditto.
1935	IX	The Provincial Small Cause Courts (Amendment) Act, 1935.	The whole.
Regulations made by the Governor-General in Council.			
1925	V	The Bengal Eastern Frontier (Amendment) Regulation, 1925.	The whole.
1943	VII	The Bengal Municipal Act (Darjeeling District Amendment) Regulation, 1943.	Ditto.

The West Bengal Ministers' Emoluments Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 596L, of the Judicial and Legislative (Legislative) Department, dated the 31st March 1948 published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 31st March 1948.]

West Bengal Act IX of 1948.*[Passed by the West Bengal Legislature.]*

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 31st March, 1948.]

An Act to fix the salaries and allowances of the Governor's Council of Ministers.

WHEREAS it is expedient to fix the salaries and allowances of the Governor's Council of Ministers;

It is hereby enacted as follows:—

1 *Short title and commencement.*—(1) This Act may be called the West Bengal Ministers' Emoluments Act, 1948.

(2) It shall come into force on the 1st day of April, 1948.

2. *Salary.*—There shall be paid a salary to each of the Ministers (including the Premier) at the rate of seven hundred and fifty rupees *per mensem*.

3. *Allowances.*—In addition to the salary referred to in section 2, there shall be paid—

(a) a sumptuary allowance at the rate of—

(i) five hundred rupees *per mensem* to the Premier; and

(ii) two hundred and fifty rupees *per mensem* to each of the other Ministers; and

(b) a motor-car allowance at the rate of two hundred and fifty rupees *per mensem* to each of the Ministers (including the Premier):

Provided that if for any period exceeding thirty days a motor-car is made available to any Minister for his use at the expense of the Provincial Government, no motor-car allowance shall be payable under this clause to such Minister for such period.

4. *Repeal of Bengal Act I of 1937.*—The Bengal Ministers' Salaries Act, 1937 (Ben. Act I of 1937), is hereby repealed.

The West Bengal Finance (Amendment and Repeal) Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 597L, of the Judicial and Legislative (Legislative) Department, dated the 31st March 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 31st March 1948].

West Bengal Act X of 1948.*[Passed by the West Bengal Legislature.]*

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 31st March 1948.]

An Act to amend certain Acts and to repeal certain other Acts.

WHEREAS it is expedient to re-enact with certain modifications the provisions of certain Finance Acts made by the Governor of Bengal under the legislative powers assumed to himself under the Proclamation, dated the 31st March, 1945 issued under section 93 of the Government of India Act, 1935 (26, Geo. V, c. 2), and for that purpose to make certain amendments in certain other Acts and to repeal the Bengal Finance Act, 1939 (Ben. Act IX of 1939);

AND WHEREAS since the said Acts made by the Governor of Bengal will by virtue of the provisions of article 6 of the India (Provisional Constitution) Order, 1947, read with sub-section (4) of the said section 93, cease to have effect on such re-enactment, it is expedient that these Acts should be expressly and specifically repealed;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the West Bengal Finance (Amendment and Repeal) Act, 1948.

2. *Temporary amendment of Bengal Act V of 1922.*—During the period ending the 31st March, 1949—

(1) the rate of entertainments tax prescribed in sub-section (3) of section 3 of the Bengal Amusements Tax Act, 1922 (Ben. Act V of 1922) (hereinafter in this section referred to as the said Act), shall, in the case of payments for admission to any cinematograph exhibition, be deemed to be as if for items (i) to (ix) of the scale of rates specified in the said sub-section the following items had been substituted, namely,—

(i) is more than three annas but is not more than four annas	...	half an anna,
(ii) is more than four annas but is less than eight annas	...	one anna,
(iii) is eight annas or more but is less than twelve annas	...	two annas,
(iv) is twelve annas or more but is less than one rupee	...	three annas,
(v) is one rupee or more but is less than one rupee four annas	...	four annas,
(vi) is one rupee four annas or more but is less than one rupee eight annas	...	five annas,
(vii) is one rupee eight annas or more but is less than one rupee twelve annas	...	six annas,
(viii) is one rupee twelve annas or more but is less than two rupees	...	eight annas,
(ix) is two rupees or more but is less than two rupees eight annas	...	twelve annas,
(x) is two rupees eight annas or more but is less than three rupees eight annas	...	one rupee,
(xi) is three rupees eight annas or more	...	one-third of the payment excluding the amount of the tax, provided that where the amount of the tax so calculated is not a multiple of eight annas the tax payable shall be the amount of the tax so calculated rounded off to the nearest eight annas",

and the entertainments tax imposed under the said sub-section on payments for admission to any cinematograph exhibition shall be charged, levied, and paid to the Provincial Government accordingly;

(2) in section 15 of the said Act,—

(a) the words and figures "as from the second day of April, 1922" shall be deemed to be omitted, and

(b) for the words "four per cent." in both places where they occur, the words "twenty per cent." shall be deemed to be substituted, and the totalisator tax imposed under the said section 15 shall be char-

ged, levied, and paid to the Provincial Government accordingly; and

(3) in section 18 of the said Act,—

(a) the words and figures “as from the second day of April, 1922” shall be deemed to be omitted, and

(b) for the words “four *per cent.*” the words “twenty *per cent.*” shall be deemed to be substituted,

and the betting tax imposed under the said section 18 shall be charged, levied, and paid to the Provincial Government accordingly.

3. *Temporary amendment of Bengal Act X of 1935.*—During the period ending the 31st March, 1949, for article (1) of the rates of duty specified in the First Schedule to the Bengal Electricity Duty Act, 1935 (Ben. Act X of 1935), the following article shall be deemed to be substituted, namely:—

“(1) in respect of all premises not falling under article (2)—

(a) when the net charge of the license for the supply of energy for the purpose of lights or fans of both does not exceed three annas for each unit of energy consumed as follows, namely—

in the case of a consumer whose consumption of energy during the month to which the calculation of duty relates,

(i) does not exceed fifteen

units ... nil,

(ii) exceeds fifteen units but does

not exceed fifty units ... six pies for each unit of energy consumed,

(iii) exceeds fifty units ... one anna for each unit of energy consumed,

(b) in other cases ... six pies for each unit of energy consumed.

Explanation.—In this article the expression ‘net charge’ means the amount of charge that remains after deduction from the charge of the licensee for the supply of energy any rebate allowed by the licensee for prompt payment.”

and the electricity duty imposed under section 3 of the Bengal Electricity Duty Act, 1935, shall be charged, levied, and paid to the Provincial Government accordingly.

4. *Amendment of section 5 of Bengal Act, VI of 1941.*—In section 5 of the Bengal Finance (Sales Tax) Act, 1941 (Ben. Act VI of 1941)—

(a) in sub-section (1), for the words “one-half” the words “three-quarters” shall be substituted; and

(b) in clause (b) of sub-section (2), for the words “three *per centum*” the words “four and one-half *per centum*” shall be substituted.

5. *Repeal of Bengal Act, IX of 1939.*—The Bengal Finance Act, 1939 (Ben. Act IX of 1939), is hereby repealed:

Provided that without prejudice to the provisions of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), relating to the effect of repeals, this repeal shall not affect—

(a) the recovery of any tax, the liability in respect of which accrued under the Bengal Finance Act, 1939, before such repeal, or the liability for any penalty in respect of the non-payment of such tax, or the grant of any refund of such tax; or

(b) the continuance of any rules made under the Bengal Finance Act, 1939 (Ben. Act IX of 1939), in so far as such continuance may be necessary for such recovery or for any investigation, legal proceeding or remedy in respect of such liability, and any such liability may be enforced or refund granted or investigation,

46 THE BENGAL EMBANKMENT (WEST-BENGAL AMENDMENT) ACT, 1948 & [1948
THE CORPORATION OF CALCUTTA (INVESTIGATION COMMISSION) ACT, 1948.

proceeding or remedy instituted, continued or enforced, as if this Act had not been passed.

6. *Repeal of certain Acts.*—The Acts specified in the Schedule are hereby repealed to the extent mentioned in the corresponding entries in the fourth column thereof.

THE SCHEDULE.

REPEALS.

(See section 6.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1945	II	The Bengal Finance Act, 1945.	The whole.
1945	VIII	The Bengal Finance (Sales Tax) Amendment Act, 1945.	The whole.
1945	IX	The Bengal Finance (No. II) Act, 1945.	The whole.
1946	III	The Bengal Finance (Repealing) Act, 1946.	The whole.

The Bengal Embankment (West Bengal Amendment) Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 668L, of the Judicial and Legislative (Legislative) Department, dated the 10th April, 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 15th April 1948].

West Bengal Act XI of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 15th April, 1948]

An Act further to amend the Bengal Embankment Act, 1882.

WHEREAS it is expedient further to amend the Bengal Embankment Act, 1882 (Ben. Act II of 1882), for the purposes and in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bengal Embankment (West Bengal Amendment) Act, 1948.

2. *Amendment of section 7 of Bengal Act II of 1882.*—In section 7 of the Bengal Embankment Act, 1882—

(a) for the word “or works executed” the words and brackets “or works (including any work of repair) executed” shall be substituted; and

(b) after clause (1) the following clause shall be inserted, namely:—

“(1a) *Repair of embankments*—that any embankment which connects public embankments or forms by junction with them part of a line of embankments or is necessary for the protection of the neighbouring country should be repaired.”

3. *Repeal of Bengal Act VI of 1945.*—The Bengal Embankment (Amendment) Act, 1945 (Ben. Act VI of 1945), is hereby repealed.

The Corporation of Calcutta (Investigation Commission) Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor-General [Vide Notification No. 673L, of the Judicial and Legislative (Legislative) Department, dated the 15th April 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 15th April 1948].

West Bengal Act XII of 1948.*[Passed by the West Bengal Legislature.]*

[Assent of the Governor-General was first published in the *Calcutta Gazette, Extraordinary*, of the 15th April, 1948.]

An Act to provide for the appointment of a Commission to investigate certain matters relating to the Corporation of Calcutta, and for certain other matters connected therewith.

WHEREAS it is expedient to provide for the appointment of a Commission to investigate certain matters relating to the Corporation of Calcutta and for certain other matters connected therewith ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Corporation of Calcutta (Investigation Commission) Act, 1948.

(2) It extends to the whole of West Bengal.

2. *Definitions.*—In this Act the expressions “Calcutta” and “the Corporation of Calcutta” have the same meanings as in the Calcutta Municipal Act, 1923 (Ben. Act III of 1923).

3. *Constitution and functions of Commission.*—The Provincial Government may, by notification in the *Official Gazette*, constitute a Commission to be called the Corporation of Calcutta Investigation Commission (hereinafter referred to as the Commission) whose duties it shall be—

(a) to investigate and report to the Provincial Government on all matters relating to the finances and administration of the Corporation of Calcutta and the working of the Calcutta Municipal Act, 1923 ;

(b) to make recommendation for improving the finances and administration of the Corporation of Calcutta, removing abuses in relation thereto, if any, and amending the Calcutta Municipal Act, 1923, if necessary, for ensuring better administration.

4. *Composition of Commission.*—(1) The Commission shall consist of a Chairman (being a person who is or has been a Judge of a High Court) and two other Commissioners, appointed by the Provincial Government.

(2) On the occurrence from any cause of a vacancy among the Commissioners, the Provincial Government may, if it thinks fit, appoint a person to fill the vacancy.

5. *Powers of Commission.*—(1) The Commission shall have power to administer oaths, and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes of taking evidence on oath, enforcing the attendance of any person whom it considers necessary to examine, compelling the production of documents and issuing commissions or letters of request for the examination of witnesses, and shall be deemed to be a Civil Court, for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898), and any reference in the said Chapter to the presiding officer of a Court shall be deemed to include a reference to the Chairman of the Commission.

(2) If it appears to the Commission that it is necessary to examine any accounts or documents, or to investigate any particular matter which it cannot itself conveniently examine or investigate, the Commission may authorise any person qualified in its opinion to make such examination or investigation to examine such accounts or documents or to investigate such particular matter and to interrogate for that purpose any person having charge or custody of such accounts or documents, or having knowledge of such particular matter and to make a report to the Commission ; any person having charge or custody of such accounts or documents shall be bound

to produce them to the person so authorised and to give such person any information in respect thereof which the person so authorised may require; and any person having knowledge of such particular matter shall be bound to give to the person so authorised any information in respect thereof which such person may require. The Commission may make such use of the report as it thinks fit.

(3) (a) The Commission may require the Corporation of Calcutta or any person who is or was a Councillor or an Alderman or any officer or servant of the Corporation of Calcutta, to furnish any return, document, plan, estimate, statement, account, statistics, information or report and the Corporation of Calcutta or such Councillor or Alderman or such officer or servant shall be bound to comply with such requisition without delay.

(b) The powers conferred by this sub-section shall be in addition to and not in derogation of the powers conferred by sub-section (1) and sub-section (2).

(4) The Commissioners and all persons authorised by the Commission under sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Act XLV of 1860).

6. *Procedure of Commission.*—(1) The Commission shall, subject to the provisions of this Act, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding the temporary absence of any Commissioner or Commissioners or a vacancy in the number of the Commissioners.

(2) In making an investigation under clause (a) of section 3, the Commission shall act in accordance with the principles of natural justice and shall follow as far as practicable the principles of the Indian Evidence Act, 1872 (I of 1872).

(3) Except with the previous sanction of the Provincial Government,—

(a) no suit, prosecution or other legal proceeding shall be instituted against any person in any Civil or Criminal Court for any evidence given by him in any proceedings before the Commission, and

(b) no evidence so given shall be admissible in evidence against such person in any suit, prosecution or other proceeding before such Court.

(4) No document shall be inadmissible in any proceedings before the Commission on the ground that it is not duly stamped or registered.

7. *Bar of jurisdiction.*—No act or proceeding of the Commission or of any person authorised by it under sub-section (2) of section 5 shall be called in question in any manner by or in any Court and no suit, prosecution or other legal proceeding shall lie against the Crown or any Commissioner or any other person for anything done or intended to be done under this Act.

8. *Power to make Rules.*—The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

The West Bengal Factories and Mines (Control of Dismantling) Act, 1948.

The following Act of the West Bengal Legislature, has been assented to in His Majesty's name by the Governor [Vide Notification No. 682L., of the Judicial and Legislative (Legislative) Department, dated the 21st April 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 22nd April 1948].

West Bengal Act XIII of 1948.[*Passed by the West Bengal Legislature.*][Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 22nd April, 1948.]*An Act to provide for the control of dismantling of factories and mines.*

WHEREAS it is expedient to provide for the control of dismantling of factories and mines ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the West Bengal Factories and Mines (Control of Dismantling) Act, 1948.

(2) It extends to the whole of West Bengal.

(3) It shall come into force at once.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “to dismantle” a factory or a mine means to remove from its position the machinery or part of the machinery of the factory or the mine, where by such removal, the factory or the mine is rendered wholly or partly useless for its purpose ; but does not include any temporary removal of the machinery or part of the machinery for purposes such as adjustment, cleaning and repairs ;

(b) “factory” means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (Act XXV of 1934), but includes also any premises which were at any time whether before or after the commencement of this Act a factory as so defined ;

(c) “machinery” has the meaning assigned to that word in clause (k) of section 2 of the Factories Act, 1934 (Act XXV of 1934) ; and

(d) “mine” has the meaning assigned to that word in clause (f) of section 3 of the Indian Mines Act, 1923 (Act IV of 1923).

3. *Dismantling a factory or a mine.*—(1) No person shall, without the written permission of the Provincial Government or of an officer authorised in this behalf by the Provincial Government, dismantle any factory or mine or remove from a factory or a mine any spare parts kept for maintaining the machinery of the factory or the mine in order :

Provided that no such permission shall be required for removing spare parts from one factory or mine for use in another factory or mine within the Province of West Bengal :

Provided further that intimation in respect of such removal shall be given to the Provincial Government within seven days from the date of such removal

(2) Any person who contravenes any of the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

4. *Offences by corporations or firms.*—Where a company or other corporate body, or a firm contravenes any of the provisions of sub-section (1) of section 3, every director of such company or corporate body, every partner of such firm and every manager or secretary or other officer or agent of such company or corporate body or firm, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.5. *Powers of entry, examination, taking evidence, etc.*—(1) Subject to any rules made by the Provincial Government, any officer authorised in this behalf by that Government, may, if he has reason to believe that any

person has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is so authorised,—

(a) enter with such assistants (if any), being persons in the service of the Crown as he thinks fit, any place ;

(b) make such examination of the place and of any machinery, books or documents therein and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act ; and

(c) exercise such other powers as may be necessary for carrying on the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself ;

(2) Any person who wilfully obstructs an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section, or fails to produce on demand any book or document in his custody or to comply with any demand for information, or knowingly or recklessly makes to such officer a statement false in a material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

6. *Cognisance of offences.*—No prosecution for any offence under this Act shall be instituted except by or with the previous sanction of the Provincial Government or the officer authorised by the Provincial Government for the purposes of sub-section (1) of section 3.

7. *Bar of legal proceedings.*—No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith done, or intended to be done, under this Act.

8. *Power to make rules.*—(1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide—

(a) for the procedure for the grant of the permission referred to in sub-section (1) of section 3 ;

(b) for an appeal against a refusal to grant the permission referred to in sub-section (1) of section 3 when such refusal is by an officer authorised in pursuance of that section ; and

(c) for regulating the manner in which officers authorised under sub-section (1) of section 5 shall exercise their powers.

The West Bengal District Boards (Amendment) Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 738L., of the Judicial and Legislative (Legislative) Department, dated the 27th April 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 27th April 1948.

West Bengal Act XV of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 29th April 1948.]

An Act to amend the West Bengal District Boards Act, 1947.

WHEREAS the district of Navadwip has been re-named as the district of Nadia on and from the 26th day of February, 1948 ;

AND WHEREAS it is expedient to amend the West Bengal District Boards Act, 1947 (West Ben. Act, III of 1947), in the manner hereinafter appearing

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the West Bengal District Boards (Amendment) Act, 1948.

(2) It shall be deemed to have come into force on the 26th day of February, 1948.

2. *Amendment of the second pre-amble to West Bengal Act III of 1947.*—In the second preamble to the West Bengal District Boards Act, 1947 (West Ben. Act III of 1947), (hereinafter referred to as the said Act), for the word “Navadwip” the word “Nadia” shall be substituted.

3. *Amendment of section 4.*—In sub-section (1) of section 4 of the said Act, for the word “Navadwip” the word “Nadia” shall be substituted.

4. *Amendment of section 6.*—In section 6 of the said Act, for the word “Navadwip” the word “Nadia” shall be substituted.

The Bengal Jute Regulation (West Bengal Amendment) Act, 1948.

The following Act of the West Bengal Legislature, has been assented to in His Majesty's name by the Governor, [Vide Notification No. 742L., of the Judicial and Legislative (Legislative) Department, dated the 28th April 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 29th April 1948.]

West Bengal Act XVI of 1948.

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 29th April, 1948.]

An Act further to amend the Bengal Jute Regulation Act, 1940.

WHEREAS it is expedient further to amend the Bengal Jute Regulation Act, 1940 (Ben. Act V of 1940), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bengal Jute Regulation (West Bengal Amendment) Act, 1948.

2. *Insertion of new section 10A.*—After section 10 of the Bengal Jute Regulation Act, 1940 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

10A. (1) Notwithstanding anything contained elsewhere in this Act, the Provincial Government may, in any year, by notification direct that every licence issued under sub-section (1) of section 10 in the immediately preceding year shall be deemed to be a licence issued under that sub-section for the growing of jute in the year specified in the notification.

(2) When a notification under sub-section (1) has been issued, in any year, by the Provincial Government, any grower of jute or his successor in interest, who was entitled to have a licence issued to him in the immediately preceding year under sub-section (1) of section 10, but who had not taken out such licence, shall be entitled to have a licence issued to him, as if the immediately preceding year had not expired and the licence so issued, shall, for the purpose of sub-section (1), be deemed to be a licence issued under sub-section (1) of section 10 in the immediately preceding year.

(3) For the avoidance of doubt it is hereby declared that it shall not be necessary for the Provincial Government to constitute an Advisory Board under section 8 or to consult any such Board under section 9 before

issuing a notification under sub-section (1)."

2. *Insertion of new sections 17A and 17B.*—After section 17 of the said Act, the following sections shall be inserted, namely :—

17A. (1) Notwithstanding anything contained elsewhere in this Act, the Provincial Government, may, by notification, direct that jute may be grown on any land not used for growing jute within three previous years. section 5, if such land has not been used for growing any crop during the jute growing season within the previous three years.

(2) When jute is grown on any land in accordance with the provisions of sub-section (1), it shall not be necessary to obtain a licence under sub-section (1) of section 10.

17B. Notwithstanding anything contained elsewhere in this Act, the Director of Land Records, shall, on application made to him in this behalf in the prescribed manner, include any land on which jute may have been grown under the provisions of sub-section (1) of section 17A, in the final record authenticated under section 5 and thereafter the provisions of this Act shall apply to such land as if such land had been included in the final record originally authenticated under section 5."

4. *Amendment of section 23.*—In clause (q) of sub-section (2) of section 23 of the said Act, after the word and figure "section 10" the words, figure, and letter "or under section 17B" shall be added.

The West Bengal Electricity (Emergency Powers) Act, 1948.

The following Act of the West Bengal Legislature, has been assented to in His Majesty's name by the Governor General, [Vide Notification No. 760L., of the Judicial and Legislative (Legislative) Department, dated the 1st May 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 6th May 1948.

West Bengal Act XVII of 1948.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor-General was first published in the *Calcutta Gazette*, of the 6th May, 1948.]

An Act to provide for the control of supply, distribution, use and consumption of electrical energy in the Province of West Bengal.

WHEREAS it is expedient to provide for the control of supply, distribution, use and consumption of electrical energy in the Province of West Bengal ;

It is hereby enacted as follows :—

1. *Short title, extent, commencement and duration.*—(1) This Act may be called the West Bengal Electricity (Emergency Powers) Act, 1948.

(2) It extends to the whole of the Province of West Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

(4) It shall remain in force for a period of three years from the date of its commencement.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "area of supply", "consumer", "licensee", "street" and "works" have the meanings assigned to them in section 2 of the Indian Electricity Act, 1910 (IX of 1910) ; and

(b) "requisition" means a requisition made under the Schedule to the Indian Electricity Act, 1910, for the supply of electrical energy.

3. *Restriction on consumption of supply.*—Notwithstanding anything contained in any contract or agreement, the Provincial Government may, by an order in writing, require any consumer to, and thereupon such consumer shall, reduce his consumption of electrical energy to such extent and in such manner and by such means as may be specified in the order. The Provincial Government shall serve a copy of the order on the licensee supplying the energy.

4. *Discontinuance or reduction of supply in certain circumstances.*—(1) Notwithstanding anything contained in the Indian Electricity Act, 1910, or any license granted thereunder or any agreement for the supply of electrical energy, the Provincial Government may, if in its opinion it is necessary or expedient for maintaining the supply or securing the equitable distribution of electrical energy, by an order in writing—

(i) authorise, or

(ii) require

a licensee to, and the licensee when so required shall, discontinue or reduce the supply of electrical energy to any consumer not being a distributing licensee, if such consumer—

(a) without the permission of the Provincial Government contravenes any order issued to him under section 3, or

(b) without the permission of the Provincial Government—

(i) exceeds at any time the maximum demand in K. W. of electrical energy recorded in respect of him during the twelve months ending on the 31st January, 1945, or

(ii) connects or has connected load beyond that notified in writing to the licensee up to the 31st January, 1945.

(2) The licensee shall—

(i) before discontinuing or reducing the supply of electrical energy under sub-section (1) give the consumer not less than forty-eight hours' notice in writing of his intention so to do ;

(ii) on discontinuing the supply, communicate to the Provincial Government within twenty-four hours from the date of discontinuance the circumstances in which he has done so ;

(iii) on being so directed in writing by the Provincial Government recommence the supply with all possible speed.

(3) The licensee shall report to the Provincial Government within twenty-four hours of its coming to his notice every contravention of any direction given under section 3 or clause (b) of sub-section (1).

5. *Restriction on supply of electrical energy and prohibition on reconnection of supply.*—(1) Notwithstanding anything contained in the Indian Electricity Act, 1910 (IX of 1910), or in any license granted thereunder or in any contract or agreement or in any requisition, the Provincial Government may, if in its opinion, it is necessary or expedient for maintaining the supply or securing the equitable distribution of electrical energy, by an order in writing direct a licensee—

(a) not to comply, except with the written permission of the Provincial Government, with—

(i) the provisions of any contract, agreement or requisition (whether made before or after the commencement of this Act), for the supply (other than the resumption of a supply), or an increase in the supply, of electrical energy to any person,

(ii) any requisition for the resumption of a supply to a consumer after a period of six months from the date of its discontinuance,

(iii) any requisition for the resumption of a supply made within six months of its discontinuance, where the requisitioning consumer was not himself the consumer of the supply at the time of its discontinuance;

(b) not to comply with any requisition for municipal purposes involving (otherwise than by way of replacement) any new works or additions to or alterations of works already installed.

(2) To obtain any permission required under sub-section (1) the licensee shall make an application to the Provincial Government in such form as the Provincial Government may notify in the *Official Gazette* in this behalf.

(3) On an application being made under sub-section (2), the Provincial Government may either refuse the permission sought or grant it either absolutely or subject to such conditions as it may think fit to impose and may also call for such further particulars relating to the application as it may require.

6. *Restriction on the use of electric al energy for the purpose of advertisement.*—Notwithstanding anything contained in any contract or agreement, the Provincial Government may, if it so thinks fit, by notification in the *Official Gazette*, direct any person receiving a supply of electrical energy from a licensee specified in the notification that he shall not use or cause to be used such electrical energy in the area of supply of such licensee for exhibiting light intended for advertisement on the exterior of any premises or on any plot of land or in any street or open space.

7. *Penalties.*—Any person who contravenes any order made under section 3, 4, 5 or 6 shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

8. *Offences by corporations.*—If the person referred to in section 7 is a company or other body corporate, the managing director, manager, secretary, or other principal officer managing its business shall be deemed to be guilty of such contravention.

9. *Cognisance of offences.*—No Court shall take cognisance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by such public servant as may be authorised by the Provincial Government in this behalf.

10. *Bar to legal proceedings.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order, direction or requirement made under section 3, 4, 5 or 6.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3, 4, 5 or 6.

11. *Service of order or directions.*—Every order or direction made or issued under this Act shall, as far as may be, be served in the manner prescribed in section 53 of the Indian Electricity Act, 1910 (IX of 1910).

12. *Effect of expiration of this Act*—On the expiration of this Act, such expiration shall not—

(a) affect any penalty or punishment incurred in respect of any offence committed under this Act before its expiration; or

(b) affect any investigation, legal proceeding or remedy in respect of any such penalty or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty or punishment may be imposed as if this Act had not expired.

• **The Bengal Medical (West Bengal Amendment) Act, 1948.**

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor-General [Vide Notification No. 918L, of the Judicial and Legislative (Legislative) Department, dated the 17th May 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 18th May 1948.]

West Bengal Act XVIII of 1948.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor General was first published in the *Calcutta Gazette*, Extraordinary, of the 18th May, 1948.]

An Act further to amend the Bengal Medical Act, 1914.

WHEREAS it is expedient further to amend the Bengal Medical Act, 1914 (Ben. Act VI of 1914) for the purposes and in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bengal Medical (West Bengal Amendment) Act, 1948.

(2) It shall come into force at once :

Provided as follows :—

(a) that the term of office of the members constituting the Council at the commencement of this Act, shall continue, as if this Act had not been passed, until a date to be appointed in this behalf by the Provincial Government by notification in the *Official Gazette* ;

(b) that the term of office of members nominated after the commencement of this Act to fill casual vacancies in that Council shall also continue until the said date.

2. *Amendment of section 4 of Bengal Act VI of 1914.*—In section 4 of the Bengal Medical Act, 1914 (Ben. Act VI of 1914),—

(a) in clause (d) the words “or the Dacca University” shall be omitted;

(b) in clause (f) after the words “medical institution” the words “in West Bengal” shall be inserted;

(c) in clause (g),—

(i) for the words “are qualified to be registered under the Medical Acts” the words and figures “have any of the medical qualifications included in the Second Schedule to the Indian Medical Council Act, 1933 (XXIV of 1933), shall be substituted, and

(ii) after the words “medical institution” the words “in West Bengal” shall be inserted ; and

(d) in clause (h) after the words “medical institution” the words “in West Bengal” shall be inserted.

• **The West Bengal Security (Amendment) Act, 1948.**

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 1610L, of the Judicial and Legislative (Legislative) Department, dated the 4th October 1948, published in the *Calcutta Gazette*, Extraordinary, Part III, dated the 4th October 1948.]

• **West Bengal Act XIX of 1948.**

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 4th October, 1948.]

An Act to amend the West Bengal Security Act, 1948.

WHEREAS it is expedient and necessary to amend the West Bengal Security Act, 1948 (West Ben. Act III of 1948), for the purpose of removing certain doubts which have arisen as to the interpretation of certain sections thereof and for certain other purposes and in the manner hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the West Bengal Security (Amendment) Act, 1948.

(2) It shall come into force on the date on which the West Bengal Security (Amendment) Ordinance, 1948 (West Ben. Ord. VIII of 1948), ceases to operate but the provisions of sections 6, 7 and 8 shall be deemed to have taken effect on and from the date of commencement of the West Bengal Security Act, 1948 (hereinafter referred to as the said Act) as if on that date this Act had been in force.

2. *Amendment of section 2 of West Bengal Act III of 1948.*—In section 2 of the said Act,—

(1) for clause (1), the following clause shall be substituted, namely :—

“(1) ‘essential commodity’ means food, water, fuel, light or power and includes such other thing as may be declared by the Provincial Government by notification to be essential for the life of the community ;”;

(2) after clause (5), the following clauses shall be inserted, namely :—

“(5a) ‘protected place’ means a place declared under section 5A to be a protected place ;

(5b) ‘protected area’ means an area declared under section 5B to be a protected area ;”;

(3) to clause (6), the following words shall be added, namely :—

“and any person engaged in any employment or class of employment which the Provincial Government may, from time to time, declare to be employment or class of employment essential to the life of the community ;”;

(4) in clause (7),—

(a) for sub-clause (e), the following sub-clause shall be substituted, namely :—

“(e) to impede, delay or restrict—

(i) any work, or

(ii) any means of transport or locomotion, necessary for the production, supply or distribution of any essential commodity except in furtherance of an industrial dispute as defined in the Industrial Disputes Act, 1947 (XIV of 1947) ;” ; and

(b) the explanation shall be renumbered as paragraph (i) thereof and after the said paragraph, as so renumbered, the following paragraph shall be added, namely :—

“(ii) An illegal strike or an illegal lock out, as defined in section 24 of the Industrial Disputes Act, 1947, shall not be deemed to be an industrial dispute for the purposes of sub-clause (e).”

3. *Insertion of new Chapter 1A.*—After Chapter I of the said Act, the following Chapter shall be inserted, namely :—

“CHAPTER 1A.

Access to certain places and areas.

5A. *Protected places.*—(1) If as respects any place or class of places the

Provincial Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons, the Provincial Government may by order declare that place, or, as the case may be, every place of that class to be a protected place; and thereupon, for so long as the order is in force, such place or every place of such class, as the case may be, shall be a protected place for the purposes of this Act.

(2) No person shall, without the permission of the Provincial Government, enter, or be on or in, or pass over, or loiter in the vicinity of, any protected place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter, or to be on or in, or to pass over, a protected place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the Provincial Government.

(4) Any police officer, or any other person authorised in this behalf by the Provincial Government, may search any person entering, or seeking to enter, or being on or in, or leaving, a protected place, and any vehicle, vessel, animal or article brought in by such person and may, for the purpose of the search, detain such person, vehicle, vessel, animal and article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(5) If any person is in a protected place in contravention of this section, then without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Provincial Government.

(6) If any person is in a protected place in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

5B. *Protected areas*—(1) If the Provincial Government considers it necessary or expedient to regulate the entry of persons into any area, the Provincial Government may, without prejudice to any other provision of this Act, by order declare the area to be a protected area; and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of this Act.

(2) On and after such day as may be specified in, and subject to any exemptions for which provision may be made by, an order made under sub-section (1), no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) Any police officer, or any other person authorised in this behalf by the Provincial Government, may search any person entering or seeking to enter, or being on or in, or leaving, a protected area, and any vehicle, vessel, animal or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel, animal and article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(4) If any person is in a protected area in contravention of the provisions of this section, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer on duty in the protected area.

(5) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

5-C *Forcing or evading a guard*—Any person who effects or attempts to effect entry into a protected place or protected area—

(a) by using, or threatening to use, criminal force to any person posted for the purpose of protecting, or preventing or controlling access to, such place or area, or

(b) after taking precautions to conceal his entry or attempting entry from any such person, shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

5-D. *Orders for certain places and areas*—(1) Without prejudice to any other provision of this Act, the Provincial Government, as respects—

(a) any place or area declared by it to be a protected place or protected area, or

(b) any other place or area in relation to which it appears to it to be necessary to take special precautions for preventing or suppressing subversive acts or for maintaining supplies and services essential to the life of the community, may make orders for controlling or regulating the admission of persons to, and the conduct of persons in and in the vicinity of, such place or area.

(2) Without prejudice to the generality of the foregoing provisions, orders made under sub-section (1) in relation to any place or area may make provision—

(a) for restricting the admission of persons to such place or area and for removing therefrom any person who is therein in contravention of the orders or who has been convicted of any contravention of the provisions of this Act;

(b) for requiring the presence of any person or class of persons in such place or area to be notified to a prescribed authority and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-section to report his movements while in such place or area and to observe any other condition imposed upon him by a prescribed authority;

(c) for requiring any person or class of persons in such place or area to carry such documentary evidence of identity, as may be prescribed; and

(d) for prohibiting any person or class of persons from being in possession or control of any prescribed article.

(3) An order made under this section in respect of a protected place or protected area may exempt such place or area from all or any of the provisions of this Act which are expressed to apply to or in relation to a protected place or protected area, as the case may be, or may direct that all or any of the said provisions shall apply, subject to such modifications as may be specified in the order.

(4) An order made under this section in respect of a place or area which is not a protected place or protected area may direct that all or any of the provisions of this Act which are expressed to apply to or in relation to a protected place or protected area, as the case may be, shall apply to or in relation to the place or area in respect of which the order is made either without modification or subject to such modification as may be specified in the order.

(5) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both."

4. *Amendment of section 15*—In sub-section (1) of section 15 of the

said Act, after the words "communal peace" the words "or to endanger the safety or stability of the Province" shall be added.

5. *Insertion of new section 15-A*—After section 15 of the said Act, the following section shall be inserted, namely :—

"15A. *Control of movements of commodities, articles or things*—(1) If, in the opinion of the Provincial Government, it is necessary or expedient so to do for preventing or suppressing subversive acts or for maintaining supplies and services essential to the life of the community, it may, by general or special order, prohibit or restrict the movement of any commodity, article or thing (including any vessel, vehicle, aircraft or animal) either generally or between any particular places or on any particular route.

(2) If any person contravenes any order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both and the Court trying the offence shall order that the commodity, article or thing (including any vessel, vehicle, aircraft or animal) in respect of which the offence has been committed shall be forfeited to His Majesty."

6. *Amendment of section 16*—In section 16 of the said Act,—

(1) in sub-section (1), the words "on reasonable grounds" shall be omitted ;

(2) in clause (b) of sub-section (5), for the words "punishable with imprisonment for a term which may extend to one year, or with fine, or with both" the words, figure and brackets "deemed to have contravened the order within the meaning of sub-section (6)" shall be substituted ; and

(3) in sub-section (6), the words, figure, letter and brackets "other than an order of the nature referred to in clause (b) of sub-section (5)" shall be omitted.

7. *Substitution of new section for section 17*.—For section 17 of the said Act, the following shall be substituted, namely :—

"17. *Duration of orders made under section 16(1)*.—Save as herein-after in this section otherwise provided, an order made under sub-section (1) of section 16 shall be in force for such period not exceeding nine months, as may be specified in the order or for the period subsequent to the date of issue of such order during which this Act continues in operation, whichever is less, unless earlier cancelled by the authority making the order :

Provided that—

(a) the Provincial Government may, if and so often as it thinks fit,—

(i) in the case of an order under clause (a) of the said sub-section, place before a Judge of the High Court in Calcutta the grounds on which the order is made, the representations, if any, made under section 18 by the person affected thereby, and such further materials as the Provincial Government may think fit, subject to the following condition, that is to say,—

the person affected by the order shall not be entitled to be defended or represented by any lawyer or other person before the Judge, and, in accordance with the decision of the Judge thereon, the Provincial Government shall issue an order for the release of the person or for an extension of the period of his detention by such or periods as may be determined by the Judge, and

(ii) in any other case, issue, after considering all the circumstances of the case, a fresh order to the same effect and subject to the same limitation as to duration as in the first instance ;

(b) notwithstanding anything hereinbefore contained, it shall be lawful

for the Provincial Government to release at any time, if it so thinks fit, any person in respect of whom an order under sub-clause (i) of clause (a) has been made."

8. *Amendment of section 18.*— In section 18 of the said Act, for the words "fifteen days" the words "thirty days" shall be substituted.

9. *Insertion of new section 18A.*— After section 18 of the said Act, the following section shall be inserted, namely :—

"18A. *Punishment for harbouring or concealing persons ordered to be detained.*— Whoever knowing or having reason to believe that an order directing any person to be detained has been made under clause (a) of sub-section (1) of section 16, harbours or conceals such person shall be punished with imprisonment for a term which may extend to two years and shall also be liable to a fine which may extend to one thousand rupees.

Explanation.— In this section the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as hereinbefore enumerated or not, to evade apprehension."

10. *Amendment of section 26.*— In sub-section (1) of section 26 of the said Act, for the words "prescribed by" the words "provided in" shall be substituted.

11. *Amendment of section 28.*— In section 28 of the said Act,—

(1) after sub-section (1), the following sub-section shall be inserted,

"(1A) Any police officer, authorised in this behalf by general or special order of a Deputy Commissioner of Police in Calcutta and the Superintendent of Police elsewhere, may enter and search any place, vessel, vehicle, aircraft or animal and, for that purpose, stop any vessel, vehicle, aircraft or animal and may seize any commodity, article or thing (including any vessel, vehicle, aircraft or animal) which, he has reason to believe, has been, is being or is about to be, used in contravening any order made under sub-section (1) of section 15A or for doing any other subversive act.

Explanation.— In this sub-section 'Calcutta' has the same meaning as in section 13 ;" ; and

(2) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) Anything seized under sub-section (1) shall be conveyed, and any commodity, article or thing (including any vessel, vehicle, aircraft or animal) seized under sub-section (1A) shall be reported, without delay before a Magistrate who may give such directions as to the temporary custody thereof as he may think fit, so however, that where no prosecution in respect thereof is instituted within a period in his opinion reasonable, the Magistrate may, subject to the provisions of any other law for the time being in force, give such orders as to the final disposal thereof as he deems expedient."

12. *Amendment of section 30.*— In section 30 of the said Act,—

(1) in the proviso to sub-section (2) for the words "fifteen days" the words "thirty days" shall be substituted ; and

(2) in sub-section (3), after the words "in addition to making such order as may appear" the words "to the Provincial Government" shall be inserted.

13. *Validity of orders made under sub-section (1) of section 16.*— For the avoidance of doubt it is hereby declared that no order heretofore made

under sub-section (1) of section 16 of the said Act shall be deemed to be invalid or shall be called in question on the ground that at the time of making the order the authority making it had no reasonable grounds.

14. *Continuance of action taken under West Bengal Ordinance VIII of 1948.*—Any order made or any penalty incurred or anything done or any action taken or any proceedings commenced in exercise of any power conferred by or under the provisions of the said Act as amended by the West Bengal Security (Amendment) Ordinance, 1948 (West Ben. Ord. VIII of 1948), shall, on the said Ordinance ceasing to operate, be deemed to have been made, incurred, done, taken or commenced in exercise of the powers conferred by or under the said Act as amended by this Act, as if this Act had been in force on the date on which such order was made, penalty was incurred, thing was done, action was taken or proceedings were commenced.

The Bengal Non-Agricultural Tenancy (Temporary Provisions) West Bengal Amendment Act, 1948.

The following Act of the West Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 1640L., of the Judicial and Legislative (Legislative) Department, dated the 7th October 1948, published in the *Calcutta Gazette*, Extraordinary, dated the 7th October 1948.

West Bengal Act XX of 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 7th October, 1948.]

An Act further to amend the Bengal Non-agricultural Tenancy (Temporary Provisions) Act, 1940.

WHEREAS it is expedient further to amend the Bengal Non-agricultural Tenancy (Temporary Provisions) Act, 1940 (Ben. Act IX of 1940); for the purposes and in the manner hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bengal Non-agricultural Tenancy (Temporary Provisions) West Bengal Amendment Act, 1948.

(2) It shall come into force on the date on which the Bengal Non-agricultural Tenancy (Temporary Provisions) West Bengal Amendment Ordinance, 1948 (West Ben. Ord. V of 1948) ceases to operate.

2. *Amendment of section 1 of Bengal Act IX of 1940.*—In sub-section (3) of section 1 of the Bengal Non-agricultural Tenancy (Temporary Provisions) Act, 1940 (hereinafter referred to as the said Act), for the words "eight years" the words "nine years" shall be substituted.

3. *Substitution of new section for section 2.*—For section 2 of said Act, the following section shall be substituted, namely :—

"2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) 'municipal area' means any area constituted a municipality under the provisions of the Bengal Municipal Act, 1932 (Ben. Act XV of 1932) ; and

(2) 'non-agricultural tenant' means a tenant who holds under another person, and is liable to pay rent to such person for, non-agricultural land which, under the terms of any agreement, such tenant is entitled to use for any homestead or residential purpose or for the conduct thereon of any commercial or industrial enterprise or any trade or business, and includes a tenant who holds agricultural land within any municipal area, but does not include a tenant who holds non-agricultural land together with any structure thereon erected or owned by the person under whom such tenant holds or by the superior or predecessor in interest of such person."

4. *Substitution of new section for section 4.*—For section 4 of the said

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Act, the following section shall be substituted, namely:—

“4. *Setting aside of certain orders for delivery of possession.*—Notwithstanding anything contained in any other law for the time being in force,—

(a) a non-agricultural tenant other than a tenant holding agricultural land within any municipal area, or a person who but for his ejectment in execution of a decree for ejectment would have been deemed to be a non-agricultural tenant other than a tenant holding agricultural land within any municipal area for the purposes of this Act, if he has been ejected between the thirtieth day of January, 1940, and the date of the commencement of this Act in execution of a decree for ejectment to which the provisions of section 3 are applicable, may, within three months from the date of the commencement of this Act, and

(b) a tenant holding agricultural land within any municipal area, or a person who but for his ejectment in execution of a decree for ejectment would have been deemed to be a tenant holding agricultural land within any municipal area, if he has been ejected between the twenty-fourth day of April, 1948, and the date of the commencement of the Bengal Non-agricultural Tenancy (Temporary Provisions) West Bengal Amendment Act, 1948, in execution of a decree for ejectment to which the provisions of section 3 are applicable may, within three months from the date of the commencement of the said Act,

apply, without payment of any fee under the Court-fees Act, 1870 (VII of 1870), to the Court which made the order for delivery of possession to have such order set aside; and such Court, if satisfied that the order was made between the dates specified in clause (a) or clause (b); as the case may be, and in any proceeding in execution of a decree for ejectment to which the provisions of section 3 are applicable, shall set aside the order and shall direct that the applicant be restored to possession of the land to which the order relates.”

5. *Amendment of section 5.*—In clause (1) of section 5 of the said Act,—

(1) in sub-clause (a), after the words “served upon him” the words “or where no such notice was served, at the rate at which the judgment-debtor was paying rent when the suit for ejectment was instituted” shall be inserted; and

(2) in sub-clause (b),—

(i) after the word “judgment-debtor” in the first place where it occurs, the words “on whom a notice to quit was served” shall be inserted; and

(ii) for the words “notice to quit” the words “such notice” shall be substituted;

6. *Amendment of section 6.*—In section 6 of the said Act, after the words “commencement of this Act” the words, brackets and figures “or at the date of commencement of the Bengal Non-agricultural Tenancy (Temporary Provisions) West Bengal Amendment Act, 1948” shall be inserted.

7. *Amendment of section 8.*—In section 8 of the said Act, the following words shall be added at the end, namely:—

“or who holds under any such Government or local authority agricultural land within any municipal area.”

8. *Continuance of action taken under West Bengal Ordinance V of 1948.*—Anything done or any action taken in exercise of any power conferred by the said Act as amended by the Bengal Non-agricultural Tenancy (Temporary Provisions) West Bengal Amendment Ordinance, 1948 (West Ben. Ord. V of 1948), shall on the said Ordinance ceasing to be in operation be deemed to have been done or taken in exercise of the powers conferred by the said Act as amended by this Act, as if this Act had commenced on the 25th day of May, 1948.